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PART 17. HEARINGS

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PART 18. PREVENTION OF SIGNIFICANT DETERIORATION OF AIR QUALITY

R 336.2801 Definitions.

The following definitions apply to terms used in this part. If a term defined in this part is also defined elsewhere in the rules, then the definition contained here applies for this part only.

(a)“Actual emissions” means the actual rate of emissions of a regulated new source review pollutant from an emissions unit, as determined under R 336.1101(b), except that this definition shall not apply for calculating whether a significant emissions increase has occurred, or for establishing a plantwide applicability limit under R 336.2823. Instead, the terms “projected actual emissions” and “baseline actual emissions” shall apply for those purposes.

(b)“Baseline actual emissions” means the rate of emissions, in tons per year, of a regulated new source review pollutant, as determined by the following:

(i)For any existing electric utility steam generating unit, baseline actual emissions means the average rate, in tons per year, at which the unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 5-year period immediately preceding when the owner or operator begins actual construction of the project. The department shall allow the use of a different time period upon a determination that it is more representative of normal source operation. All of the following provisions apply:

(A)The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.

(B)The average rate shall be adjusted downward to exclude any noncompliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive 24-month period.

(C)For a regulated new source review pollutant, if a project involves multiple emissions units, then only 1 consecutive 24-month period shall be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive 24-month period may be used for each regulated new source review pollutant.

(D)The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by paragraph (i)(B) of this subdivision.

(ii)For an existing emissions unit, other than an electric utility steam generating unit, baseline actual emissions means the

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average rate, in tons per year, at which the emissions unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 10-year period immediately preceding either the date the owner or operator begins actual construction of the project, or the date a complete permit application is received by the department for a permit required by R 336.1201, whichever is earlier, except that the 10-year period shall not include any period earlier than November 15, 1990. All of the following provisions apply:

(A) The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.

(B) The average rate shall be adjusted downward to exclude any noncompliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive 24-month period.

(C) The average rate shall be adjusted downward to exclude emissions that would have exceeded an emission limitation with which the major stationary source must currently comply, had such major stationary source been required to comply with such limitations during the consecutive 24-month period. However, if an emission limitation is part of a maximum achievable control technology standard that the United States environmental protection agency proposed or promulgated under 40 C.F.R. part 63, then the baseline actual emissions need only be adjusted if the state has taken credit for such emissions reductions in an attainment demonstration or maintenance plan submitted to the U.S. environmental protection agency. The provisions of 40 C.F.R. part 63 are adopted by reference in R 336.2801a.

(D) For a regulated new source review pollutant, if a project involves multiple emissions units, then only 1 consecutive 24-month period shall be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive 24-month period may be used for each regulated new source review pollutant.

(E) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by subparagraphs (B) and (C) of this paragraph.

(iii) For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero; and thereafter, for all other purposes, shall equal the unit's potential to emit.

(iv) For a plantwide applicability limit for a stationary source, the baseline actual emissions shall be calculated for existing electric utility steam generating units under paragraph (i) of this subdivision, for other existing emissions units under paragraph (ii) of this subdivision, and for a new emissions unit under paragraph (iii) of this subdivision.

(c) "Baseline area" means all of the following:

(i) Any intrastate area, and every part thereof, designated as attainment or unclassifiable under section 107(d)(1) (D) or (E) of the clean air act in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact equal to or greater than 1 microgram per cubic meter (annual average) of the pollutant for which the minor source baseline date is established.

(ii) Area redesignations under section 107(d)(1) (D) or (E) of the clean air act shall not intersect or be smaller than the area of impact of any major stationary source or major modification which does either of the following:

(A) Establishes a minor source baseline date.

(B) Is subject to PSD regulations or new source review for major sources in nonattainment areas regulations.

(iii) Any baseline area established originally for the total suspended particulates increments shall remain in effect and shall apply for purposes of determining the amount of available PM-10 increments, except that the baseline area shall not remain in effect if the department rescinds the corresponding minor source baseline date under subdivision (bb)(iv) of this rule.

(d) "Baseline concentration" means the value derived using the following procedures:

(i) The ambient concentration level that exists in the baseline area at the time of the applicable minor source baseline date. A baseline concentration is determined for each pollutant for which a minor source baseline date is established and shall include both of the following:

(A) The actual emissions representative of sources in existence on the applicable minor source baseline date.

(B) The allowable emissions of major stationary sources that commenced construction before the major source baseline date, but were not in operation by the applicable minor source baseline date.

(ii) The following shall not be included in the baseline concentration and shall affect the applicable maximum allowable increase:

(A) Actual emissions from any major stationary source on which construction commenced after the major source baseline date.

(B) Actual emissions increases and decreases at any stationary source occurring after the minor source baseline date.

(e) "Begin actual construction" means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. "A change in method of operation" refers to those on-site activities, other than preparatory activities, which mark the initiation of the change.

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(f)“Best available control technology” or “BACT” means an emissions limitation, including a visible emissions standard, based on the maximum degree of reduction for each regulated new source review pollutant, which would be emitted from any proposed major stationary source or major modification which the department -- on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs -- determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combination techniques for control of the pollutant. Application of best available control technology shall not result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 C.F.R. parts 60 and 61, adopted by reference in R 336.2801a. If the department determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, then a design, equipment, work practice, operational standard or combination thereof, may be prescribed instead to satisfy the requirement for the application of best available control technology. The standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of the design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

(g)“Building, structure, facility, or installation” means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on 1 or more contiguous or adjacent properties, and are under the control of the same person, or persons under common control, except the activities of any vessel. Pollutant-emitting activities are part of the same industrial grouping if they have the same 2-digit major group code associated with their primary activity. Major group codes and primary activities are described in the standard industrial classification manual, 1987. For assistance in converting north American industrial classification system codes to standard industrial classification codes see <http://www.census.gov/epcd/naics02/>.

(h)“Clean coal technology” means any technology, including technologies applied at the precombustion, combustion, or post-combustion stage, at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam which was not in widespread use as of November 15, 1990.

(i)“Clean coal technology demonstration project” means a project using funds appropriated under the heading "Department of Energy -- Clean Coal Technology," up to a total amount of \$2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the United States Environmental Protection Agency. The federal contribution for a qualifying project shall be at least 20% of the total cost of the demonstration project.

(j)[Reserved]

(k)“Commence,” as applied to construction of a major stationary source or major modification, means that the owner or operator has all necessary preconstruction approvals or permits and has done either of the following:

(i) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time.

(ii) Entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

(l)“Complete” means, in reference to an application for a permit, that the application contains all the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the department from requesting or accepting additional information.

(m)“Construction” means any physical change or change in the method of operation, including fabrication, erection, installation, demolition, or modification of an emissions unit, that would result in a change in emissions.

(n)“Continuous emissions monitoring system” or “CEMS” means all of the equipment that may be required to meet the data acquisition and availability requirements of these rules, to sample, condition if applicable, analyze, and provide a record of emissions on a continuous basis.

(o)“Continuous emissions rate monitoring system” or “CERMS” means the total equipment required for the determination and recording of the pollutant mass emissions rate in terms of mass per unit of time.

(p)“Continuous parameter monitoring system” or “CPMS” means all of the equipment necessary to meet the data acquisition and availability requirements of these rules, to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, oxygen or carbon dioxide concentrations), and to record average operational parameter value or values on a continuous basis.

(q)“Electric utility steam generating unit” means any steam electric generating unit that is constructed for supplying more than 1/3 of its potential electric output capacity and more than 25 megawatt electrical output to any utility power distribution system for sale. Steam supplied to a steam distribution system for providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

(r)“Emissions unit” means any part of a stationary source that emits or would have the potential to emit any regulated new

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source review pollutant and includes an electric utility steam generating unit. Both of the following are types of emissions units:

- (i) A new emissions unit is any emissions unit that is, or will be, newly constructed and that has existed for less than 2 years from the date the emissions unit first operated.
- (ii) An existing emissions unit is any emissions unit that does not meet the definition of a new emissions unit. A replacement unit is an existing emissions unit.
- (s) "Federal land manager" means, with respect to any lands in the United States, the secretary of the department with authority over such lands.
- (t) "High terrain" means an area having an elevation 900 feet or more above the base of the stack of a source.
- (u) "Hydrocarbon combustion flare" means either a flare used to comply with an applicable new source performance standard or maximum achievable control technology standard, including uses of flares during startup, shutdown, or malfunction permitted under such a standard, or a flare that serves to control emissions of waste streams comprised predominately of hydrocarbons and containing not more than 230 milligrams per dry standard cubic meter hydrogen sulfide.
- (v) "Indian reservation" means any federally recognized reservation established by treaty, agreement, executive order, or act of congress.
- (w) "Indian governing body" means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.
- (x) "Innovative control technology" means any system of air pollution control that has not been adequately demonstrated in practice, but may have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air quality environmental impacts.
- (y) "Low terrain" means any area other than high terrain.
- (z) "Lowest achievable emission rate" or "LAER", for any source, means the more stringent rate of emissions based on R 336.1112(f).
- (aa) "Major modification" means any of the following:
 - (i) Physical change in or change in the method of operation of a major stationary source that would result in both of the following:
 - (A) A significant emissions increase of a regulated new source review pollutant.
 - (B) A significant net emissions increase of that pollutant from the major stationary source.
 - (ii) A significant emissions increase from any emissions units or net emissions increase at a major stationary source that is significant for volatile organic compounds shall be considered significant for ozone.
 - (iii) Physical change or change in the method of operation shall not include any of the following:
 - (A) Routine maintenance, repair, and replacement.
 - (B) Use of an alternative fuel or raw material by reason of any order under section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 or by reason of a natural gas curtailment plan under the Federal Power Act.
 - (C) Use of an alternative fuel by reason of an order or rule under section 125 of the clean air act.
 - (D) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste.
 - (E) Use of an alternative fuel or raw material by a stationary source which meets either of the following:
 - (1) The source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975, under PSD regulations or R 336.1201(1)(a).
 - (2) The source is approved to use under any permit issued under PSD regulations or under R 336.1201(1)(a).
 - (F) An increase in the hours of operation or in the production rate, unless the change would be prohibited under any federally enforceable permit condition which was established after January 6, 1975, under PSD regulations or R 336.1201(1)(a).
 - (G) Any change in ownership at a stationary source.
 - (H) [Reserved]
 - (I) The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with both of the following:
 - (1) The state implementation plan.
 - (2) Other requirements necessary to attain and maintain the national ambient air quality standards during the project and after the project is terminated.
 - (J) The installation or operation of a permanent clean coal technology demonstration project that constitutes repowering, provided that the project does not result in an increase in the potential to emit of any regulated pollutant emitted by the unit. This exemption shall apply on a pollutant-by-pollutant basis.
 - (K) The reactivation of a very clean coal-fired electric utility steam generating unit.
 - (iv) This definition shall not apply with respect to a particular regulated new source review pollutant when the major

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stationary source is complying with the requirements for an actuals PAL for that pollutant. Instead, the definition of PAL major modification in R 336.2823 shall apply.

(bb)All of the following apply to major and minor source baseline dates:

(i)“Major source baseline date” means both of the following:

(A)January 6, 1975, for particulate matter and sulfur dioxide.

(B)February 8, 1988, for nitrogen dioxide.

(ii)“Minor source baseline date” means the earliest date after the trigger date on which a major stationary source or a major modification subject to PSD regulations submits a complete application under the relevant regulations. The trigger date is both of the following:

(A)August 7, 1977, for particulate matter and sulfur dioxide.

(B)February 8, 1988, for nitrogen dioxide.

(iii)The baseline date is established for each pollutant for which increments or other equivalent measures have been established if both of the following occur:

(A)The area in which the proposed source or modification would construct is designated as attainment or unclassifiable under section 107(d)(i) (D) or (E) of the clean air act for the pollutant on the date of its complete application under R 336.1201 and PSD regulations.

(B)If a major stationary source, the pollutant would be emitted in significant amounts, or, if a major modification, there would be a significant net emissions increase of the pollutant.

(iv)Any minor source baseline date established originally for the total suspended particulates increments shall remain in effect and shall apply for determining the amount of available PM-10 increments, except that the department may rescind any minor source baseline date where it can be shown, to the satisfaction of the department, that the emissions increase from the major stationary source, or the net emissions increase from the major modification, responsible for triggering that date did not result in a significant amount of PM-10 emissions.

(cc)“Major stationary source” means any of the following:

(i)Any of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of a regulated new source review pollutant:

(A)Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input.

(B)Coal cleaning plants with thermal dryers.

(C)Kraft pulp mills.

(D)Portland cement plants.

(E)Primary zinc smelters.

(F)Iron and steel mill plants.

(G)Primary aluminum ore reduction plants.

(H)Primary copper smelters.

(I)Municipal incinerators capable of charging more than 250 tons of refuse per day.

(J)Hydrofluoric, sulfuric, and nitric acid plants.

(K)Petroleum refineries.

(L)Lime plants.

(M)Phosphate rock processing plants.

(N)Coke oven batteries.

(O)Sulfur recovery plants.

(P)Carbon black plants (furnace process).

(Q)Primary lead smelters.

(R)Fuel conversion plants.

(S)Sintering plants.

(T)Secondary metal production plants.

(U)Chemical process plants.

(V)Fossil fuel boilers, or combinations thereof, totaling more than 250 million British thermal units per hour heat input.

(W)Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels.

(X)Taconite ore processing plants.

(Y)Glass fiber processing plants.

(Z)Charcoal production plants.

(ii)Any stationary source not listed in the previous subdivision which emits, or has the potential to emit, 250 tons per year or more of a regulated new source review pollutant.

(iii)Any physical change that would occur at a stationary source not otherwise qualifying under subdivision (cc) of this subrule, as a major stationary source if the change would constitute a major stationary source by itself.

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- (iv) A major source that is major for volatile organic compounds shall be considered major for ozone.
- (v) The fugitive emissions of a stationary source shall not be included in determining, for any of the purposes of this rule, whether it is a major stationary source, unless the source belongs to 1 of the categories of stationary sources listed in paragraph (i) of this subdivision.
- (dd) "Necessary preconstruction approvals or permits" means a permit issued under R 336.1201(1)(a) that is required by R 336.2801 to R 336.2819, R 336.2823, and R 336.2830 or R 336.1220.
- (ee) "Net emissions increase" means all of the following:
- (i) For any regulated new source review pollutant emitted by a major stationary source, the amount by which the sum of the following exceeds zero:
- (A) The increase in emissions from a particular physical change or change in the method of operation at a stationary source as calculated under R 336.2802(4).
- (B) Any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable. Baseline actual emissions for calculating increases and decreases under this paragraph shall be determined as provided in the definition of baseline actual emissions, except that paragraphs (i)(C) and (ii)(D) of this subdivision shall not apply.
- (ii) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs not more than 5 years before the date that the increase from the particular change occurs.
- (iii) An increase or decrease in actual emissions is creditable only if both of the following occur:
- (A) It occurs within a 5-year period.
- (B) The department has not relied on it in issuing a permit under R 336.1201(1)(a) or R 336.1214a, which permit is in effect when the increase in actual emissions from the particular change occurs.
- (iv) An increase or decrease in actual emissions of sulfur dioxide, particulate matter, or oxides of nitrogen that occurs before the applicable minor source baseline date is creditable only if it is required in calculating the amount of maximum allowable increases remaining available.
- (v) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.
- (vi) A decrease in actual emissions is creditable only to the extent that it meets all of the following criteria:
- (A) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions.
- (B) It is enforceable as a practical matter at and after the time that actual construction on the particular change begins.
- (C) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.
- (vii) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. A replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.
- (viii) The provisions of R 336.1101(b) shall not apply for determining creditable increases and decreases.
- (ff) [Reserved]
- (gg) "Pollution prevention" means any activity that through process changes, product reformulation or redesign, or substitution of less polluting raw materials, eliminates or reduces the release of air pollutants, including fugitive emissions, and other pollutants to the environment before recycling, treatment, or disposal. Pollution prevention does not mean recycling, other than certain "in-process recycling" practices, energy recovery, treatment, or disposal.
- (hh) "Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. A physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is legally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.
- (ii) "Predictive emissions monitoring system" or "PEMS" means all of the equipment necessary to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, oxygen or carbon dioxide concentrations), and calculate and record the mass emissions rate (for example, pounds per hour) on a continuous basis.
- (jj) "Prevention of significant deterioration" or "PSD" program means the major source preconstruction permit program required by 40 C.F.R. §52.21, adopted by reference in R 336.2801a, or R 336.2801 to R 336.2819, R 336.2823 and R 336.2830. A permit issued under this program is a major NSR permit.
- (kk) "Project" means a physical change in, or change in method of operation of, an existing major stationary source.
- (ll) "Projected actual emissions" means all of the following:
- (i) The maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated new source review pollutant in any 1 of the 5 years (12-month period) following the date the unit resumes regular operation after the

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project, or in any 1 of the 10 years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit that regulated new source review pollutant, and full utilization of the unit would result in a significant emissions increase, or a significant net emissions increase at the major stationary source.

(ii) In determining the projected actual emissions, before beginning actual construction, the owner or operator of the major stationary source shall do all of the following:

(A) Consider all relevant information, including but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with the state or federal regulatory authorities, and compliance plans under the state implementation plan.

(B) Include fugitive emissions to the extent quantifiable and emissions associated with startups, shutdowns, and malfunctions.

(C) Exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions and that are also unrelated to the particular project, including any increased utilization due to product demand growth.

(iii) The owner or operator of a major stationary source may use the emissions unit's potential to emit, in tons per year, instead of calculating projected actual emissions.

(mm) "Reactivation of a very clean coal-fired electric utility steam generating unit" means any physical change or change in the method of operation associated with the commencement of commercial operations by a coal-fired utility unit after a period of discontinued operation where the unit meets all of the following criteria:

(i) The unit was not in operation for the 2-year period before the enactment of the clean air act amendments of 1990, and the emissions from the unit continue to be carried in the department's emissions inventory at the time of enactment.

(ii) The unit was equipped before shutdown with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of not less than 85% and a removal efficiency for particulates of not less than 98%.

(iii) The unit was equipped with low-oxides of nitrogen burners before the time of commencement of operations following reactivation.

(iv) The unit otherwise complies with the requirements of the clean air act.

(nn) "Regulated new source review pollutant," for purposes of this rule, means all of the following:

(i) A pollutant for which a national ambient air quality standard has been promulgated and any constituents or precursors for the pollutants identified by the United States environmental protection agency. For example, volatile organic compounds are precursors for ozone.

(ii) A pollutant that is subject to any standard promulgated under section 111 of the clean air act.

(iii) A class I or II substance subject to a standard promulgated under or established by title VI of the clean air act.

(iv) A pollutant that otherwise is subject to regulation under the clean air act; except that any or all hazardous air pollutants either listed in section 112 of the clean air act or added to the list under section 112(b)(2) of the clean air act, which have not been delisted under section 112(b)(3) of the clean air act, are not regulated new source review pollutants unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a general pollutant listed under section 108 of the clean air act.

(oo) "Repowering" means all of the following:

(i) Replacement of an existing coal-fired boiler with 1 of the following clean coal technologies:

(A) Atmospheric or pressurized fluidized bed combustion.

(B) Integrated gasification combined cycle.

(C) Magneto hydrodynamics.

(D) Direct and indirect coal-fired turbines.

(E) Integrated gasification fuel cells.

(F) A derivative of 1 or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990, as determined by the United States environmental protection agency, in consultation with the Secretary of Energy.

(ii) Repowering shall also include any oil and/or gas-fired unit which has been awarded clean coal technology demonstration funding as of January 1, 1991, by the United States Department of Energy.

(iii) The department shall give expedited consideration to permit applications for any source that satisfies the definition of repowering and is granted an extension under section 409 of the clean air act.

(pp) "Secondary emissions" means emissions which occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For this rule, secondary emissions shall be specific, well defined, quantifiable, and impact the same general areas the stationary source modification which causes the secondary emissions. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major

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stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

(qq)“Significant” means:

(i)In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following pollutant emission rates:

(A)Carbon monoxide: 100 tons per year.

(B)Oxides of nitrogen: 40 tons per year.

(C)Sulfur dioxide: 40 tons per year.

(D)Particulate matter: 25 tons per year of particulate matter emissions; 15 tons per year of PM-10 emissions.

(E)Ozone: 40 tons per year of volatile organic compounds.

(F)Lead: 0.6 tons per year.

(G)Fluorides: 3 tons per year.

(H)Sulfuric acid mist: 7 tons per year.

(I)Hydrogen sulfide: 10 tons per year.

(J)Total reduced sulfur, including hydrogen sulfide: 10 tons per year.

(K)Reduced sulfur compounds, including hydrogen sulfide: 10 tons per year.

(L)Municipal waste combustor organics, measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans: 3.2×10^{-6} megagrams per year or 3.5×10^{-6} tons per year.

(M)Municipal waste combustor metals, measured as particulate matter: 14 megagrams per year or 15 tons per year.

(N)Municipal waste combustor acid gases, measured as sulfur dioxide and hydrogen chloride: 36 megagrams per year or 40 tons per year.

(O)Municipal solid waste landfill emissions, measured as nonmethane organic compounds: 45 megagrams per year or 50 tons per year.

(ii)Significant means, in reference to a net emissions increase or the potential of a source to emit a regulated new source review pollutant not listed in this definition, any emissions rate.

(iii)Significant also means any emissions rate or any net emissions increase associated with a major stationary source or major modification, which would construct within 10 kilometers of a class I area, and have an impact on such area equal to or greater than 1 microgram per cubic meter (24-hour average).

(rr)“Significant emissions increase” means, for a regulated new source review pollutant, an increase in emissions that is significant for that pollutant.

(ss)“Stationary source” means any building, structure, facility, or installation which emits or may emit a regulated new source review pollutant.

(tt)“Temporary clean coal technology demonstration project” means a clean coal technology demonstration project that is operated for a period of 5 years or less, and which complies with the state implementation plan and other requirements necessary to attain and maintain the national ambient air quality standards during and after the project is terminated.

History: 2006 MR 23, Eff. Dec. 4, 2006.

R 336.2801a Adoption by reference.

Rule 1801a.For the purpose of clarifying the definitions in these rules, the following documents are adopted by reference in these rules:

(a)Copies of the following documents are available for inspection and purchase at the Air Quality Division, Department of Environmental Quality, 525 West Allegan Street, P.O. Box 30260, Lansing, Michigan 48909-7760, at a cost as of the time of adoption of these rules:

(i)Title 40 C.F.R., part 51, appendix S, section IV, “Sources That Would Locate in a Designated Nonattainment Area,” (2005), \$55.00.

(ii)Title 40 C.F.R., §52.21, “Prevention of Significant Deterioration of Air Quality,” (2005), \$70.00.

(iii)Title 40 C.F.R., part 58, appendix B, “Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring,” (2005), \$41.00.

(iv)Title 40 C.F.R., part 60, “Standards of performance for new stationary sources,” (2005), \$68.00 for 60.1-end and \$67.00 for the appendices.

(v)Title 40 C.F.R., part 61, “National emission standards for hazardous air pollutants,” (2005), \$55.00.

(vi)Title 40 C.F.R., part 63, “National emission standards for hazardous air pollutants for source categories,” (2005), \$68.00 for 63.1-63.599, \$60.00 for 63.600-63.1199, \$60.00 for 63.1200-63.1439, \$42.00 for 63.1440-63.6175, \$42.00 for 63.6580-63.8830, and \$45.00 for 63.8980-end.

(b)Copies of the following documents may be obtained from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania, 15250-7954, at a cost as of the time of adoption of these rules, or on the United

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States government printing office internet web site at <http://www.access.gpo.gov>:

- (i) Title 40 C.F.R., part 51, appendix S, section IV, “Sources That Would Locate in a Designated Nonattainment Area,” (2005), \$45.00.
 - (ii) Title 40 C.F.R., §52.21, “Prevention of Significant Deterioration of Air Quality,” (2005), \$60.00.
 - (iii) Title 40 C.F.R., part 58, appendix B, “Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring,” (2005), \$31.00.
 - (iv) Title 40 C.F.R., part 60, “Standards of performance for new stationary sources,” (2005), \$58.00 for 60.1-end and \$57.00 for the appendices.
 - (v) Title 40 C.F.R., part 61, “National emission standards for hazardous air pollutants,” (2005), \$45.00.
 - (vi) Title 40 C.F.R., part 63, “National emission standards for hazardous air pollutants for source categories,” (2005), \$58.00 for 63.1-63.599, \$50.00 for 63.600-63.1199, \$50.00 for 63.1200-63.1439, \$32.00 for 63.1440-63.6175, \$32.00 for 63.6580-63.8830, and \$35.00 for 63.8980-end.
- History: 2006 MR 23, Eff. Dec. 4, 2006.

R 336.2802 Applicability.

Rule 1802.(1) This part applies to the construction of a new major stationary source or a project at an existing major stationary source in an area designated as attainment or unclassifiable under sections 107(d)(1)(A)(ii) or (iii) of the clean air act.

(2) The requirements of R 336.2810 to R 336.2818 apply to the construction of any new major stationary source or the major modification of any existing major stationary source, except as this rule otherwise provides.

(3) No new major stationary source or major modification to which R 336.2810 to R 336.2818(2) apply shall begin actual construction without a permit to install issued under R 336.1201(1)(a) that states that the major stationary source or major modification will meet those requirements.

(4) This part applies to the construction of new major sources and major modifications to existing major sources in the following manner:

(a) Except as otherwise provided in subrule (5) of this rule, and consistent with the definition of major modification, a project is a major modification for a regulated new source review pollutant if it causes both of the following types of emissions increases:

(i) A significant emissions increase.

(ii) A significant net emissions increase.

The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.

(b) The procedure for calculating whether a significant emissions increase will occur depends upon the type of emissions units being modified. The procedure for calculating, before beginning actual construction, whether a significant net emissions increase will occur at the major stationary source is contained in the definition of net emissions increase. Regardless of preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.

(c) The actual-to-projected-actual applicability test may be used for projects that only involve existing emissions units. A significant emissions increase of a regulated new source review pollutant is projected to occur if the sum of the difference between the projected actual emissions and the baseline actual emissions for each existing emissions unit, equals or exceeds the significant amount for that pollutant.

(d) The actual-to-potential test may be used for projects that involve construction of new emission units or modification of existing emission units. A significant emissions increase of a regulated new source review pollutant is projected to occur if the sum of the difference between the potential to emit from each new or modified emission unit following completion of the project and the baseline actual emissions of these units before the project equals or exceeds the significant amount for that pollutant.

(e) The hybrid test may be used for projects that involve multiple types of emissions units. A significant emissions increase of a regulated new source review pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the appropriate methods specified in this subrule as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the significant amount for that pollutant.

(5) For any major stationary source with a plantwide applicability limit for a regulated new source review pollutant, the major stationary source shall comply with R 336.2823.

History: 2006 MR 23, Eff. Dec. 4, 2006.

R 336.2803 Ambient air increments

Rule 1803. In areas designated as class I, II, or III, increases in pollutant concentration over the baseline concentration shall

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be limited to all of the following:

Table 182
Ambient air increments

Pollutant	Maximum allowable increase (micrograms per cubic meter)
Class I	
1-1 Particulate matter	
PM-10, annual arithmetic mean	4
PM-10, 24-hour maximum	8
Sulfur dioxide:	
Annual arithmetic mean	2
24-hour maximum	5
3-hour maximum	25
Nitrogen dioxide:	
Annual arithmetic mean	2.5
Class II	
Particulate matter:	
PM-10, annual arithmetic mean	17
PM-10, 24-hour maximum	30
Sulfur dioxide:	
Annual arithmetic mean	20
24-hour maximum	91
3-hour maximum	512
Nitrogen dioxide	
Annual arithmetic mean	25
Class III	
Particulate matter:	
PM-10, annual arithmetic mean	34
PM-10, 24-hour maximum	60
Sulfur dioxide:	
Annual arithmetic mean	40
24-hour maximum	182
3-hour maximum	700
Nitrogen dioxide:	
Annual arithmetic mean	50

For any period other than an annual period, the applicable maximum allowable increase may be exceeded during 1 period per year at any 1 location.

History: 2006 MR 23, Eff. Dec. 4, 2006.

R 336.2804 Ambient air ceilings.

Rule 1804. The concentration of a pollutant shall not exceed either of the following:

(a) The concentration permitted under the national secondary ambient air quality standard.

(b) The concentration permitted under the national primary ambient air quality standard, whichever concentration is lowest for the pollutant for a period of exposure.

History: 2006 MR 23, Eff. Dec. 4, 2006.

R 336.2805 Restrictions on area classifications.

Rule 1805.(1) All of the following areas in existence on August 7, 1977, shall be class I areas and shall not be redesignated:

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- (a) International parks.
 - (b) National wilderness areas which exceed 5,000 acres in size, including Seney National Wildlife Refuge.
 - (c) National memorial parks which exceed 5,000 acres in size.
 - (d) National parks which exceed 6,000 acres in size, including Isle Royale National Park.
 - (2) Areas which were redesignated as class I under federal regulations promulgated before August 7, 1977, shall remain class I, but may be redesignated as provided in this rule.
 - (3) Any other area, unless otherwise specified in the legislation creating such an area, is initially designated class II, but may be redesignated as provided in this rule.
 - (4) Both of the following areas may be redesignated only as class I or II:
 - (a) An area which as of August 7, 1977, exceeded 10,000 acres in size and was a national monument, a national primitive area, a national preserve, a national recreational area, a national wild and scenic river, a national wildlife refuge, a national lakeshore or seashore.
 - (b) A national park or national wilderness area established after August 7, 1977, which exceeds 10,000 acres in size.
- History: 2006 MR 23, Eff. Dec. 4, 2006.

R 336.2806 Exclusions from increment consumption.

Rule 1806. (1) The following concentrations shall be excluded in determining compliance with a maximum allowable increase:

- (a) Concentrations attributable to the increase in emissions from stationary sources which have converted from the use of petroleum products, natural gas, or both, by reason of an order in effect under section 2 (a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 over the emissions from the identical sources before the effective date of the order.
- (b) Concentrations attributable to the increase in emissions from sources which have converted from using natural gas by reason of natural gas curtailment plan in effect under the Federal Power Act over the emissions from sources before the effective date of the plan.
- (c) Concentrations of particulate matter attributable to the increase in emissions from construction or other temporary emission-related activities of new or modified sources.
- (d) The increase in concentrations attributable to new sources outside the United States over the concentrations attributable to existing sources which are included in the baseline concentration.
- (e) Concentrations attributable to the temporary increase in emissions of sulfur dioxide, particulate matter, or oxides of nitrogen from stationary sources which are affected by plan revisions approved by the United States environmental protection agency.
- (2) An exclusion of concentrations shall not apply more than 5 years after the effective date of the order to which subrule (1)(a) of this rule refers or the plan to which subrule (1)(b) of this rule refers, whichever is applicable. If both the order and plan are applicable, then the exclusion shall not apply more than 5 years after the later of such effective dates.

History: 2006 MR 23, Eff. Dec. 4, 2006.

R 336.2807 Redesignation.

Rule 1807. (1) All areas of the state, except those designated as class I pursuant to R 336.2805 are designated as class II. Redesignation, except as otherwise precluded by R 336.2805, may be proposed by the department, as provided in subrule (2) of this rule, subject to approval by the United States environmental protection agency as a revision to the state implementation plan.

(2) The department may submit to the United States environmental protection agency a proposal to redesignate areas of the state class I or class II, based on all of the following:

- (a) At least 1 public hearing has been held under MCL 324.5511.
- (b) Other states, Indian governing bodies, and federal land managers whose lands may be affected by the proposed redesignation were notified at least 30 days before the public hearing.
- (c) A discussion of the reasons for the proposed redesignation, including a satisfactory description and analysis of the health, environmental, economic, social, and energy effects of the proposed redesignation, was prepared and made available for public inspection at least 30 days before the hearing and the notice announcing the hearing contained appropriate notification of the availability of such discussion.
- (d) Before the issuance of notice respecting the redesignation of an area that includes any federal lands, the department has provided written notice to the appropriate federal land manager and afforded adequate opportunity, not more than 60 days, to confer with the department respecting the redesignation and to submit written comments and recommendations. In redesignating an area with respect to which a federal land manager had submitted written comments and recommendations, the department shall have published a list of any inconsistency between the redesignation and comments and recommendations, together with the reasons for making the redesignation against the recommendation of the federal land

manager.

(e)The department has proposed the redesignation after consultation with the elected leadership of local and other substate general purpose governments in the area covered by the proposed redesignation.

History: 2006 MR 23, Eff. Dec. 4, 2006.

R 336.2808 Stack heights.

Rule 1808. The degree of emission limitation required for control of any air pollutant under this rule shall not be affected in any manner by either of the following:

(a)So much of a stack height, not in existence before December 31, 1970, as exceeds good engineering practice.

(b)Any other dispersion technique not implemented before December 31, 1970.

History: 2006 MR 23, Eff. Dec. 4, 2006.

R 336.2809 Exemptions.

Rule 1809.(1)The requirements of R 336.2810 to R 336.2818 do not apply to a particular major stationary source or major modification if either of the following occurs:

(a)The major stationary source would be a nonprofit health or nonprofit educational institution or a major modification that would occur at such an institution.

(b)The source or modification would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification and the source is not required to include fugitives in its potential to emit under R 336.2801(cc)(v).

(c)The source or modification is a portable stationary source which has previously received a permit under R 336.2810 to R 336.2818, if all of the following occur:

(i)The source proposes to relocate and emissions of the source at the new location would be temporary.

(ii)The emissions from the source would not exceed its allowable emissions.

(iii)The emissions from the source would not impact a class I area or an area where an applicable increment is known to be violated.

(iv)Reasonable notice is given to the department before the relocation identifying the proposed new location and the probable duration of operation at the new location. Notice shall be given to the department not less than 10 days in advance of the proposed relocation unless a different time duration is previously approved by the department.

(2)The requirements of R 336.2810 to R 336.2818 do not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that, as to that pollutant, the source or modification is subject to new source review for major sources in nonattainment areas regulations.

(3)The requirements of R 336.2811, R 336.2813, and R 336.2815 do not apply to a proposed major stationary source or major modification with respect to a particular pollutant, if the allowable emissions of that pollutant from a new source, or the net emissions increase of that pollutant from a modification, would be temporary and would not impact a class I area or an area where an applicable increment is known to be violated.

(4)The requirements of R 336.2811, R 336.2813, and R 336.2815, as they relate to any maximum allowable increase for a class II area, do not apply to a modification of a major stationary source that was in existence on March 1, 1978, if the net increase in allowable emissions of each regulated new source review pollutant from the modification after the application of best available control technology would be less than 50 tons per year.

(5)The department may exempt a proposed major stationary source or major modification from R 336.2813, with respect to monitoring for a particular pollutant, if any of the following occur:

(a)The emissions increase of the pollutant from a new stationary source or the net emissions increase of the pollutant from a modification would cause, in any area, air quality impacts less than the following amounts:

(i)Carbon monoxide -- 575 micrograms per cubic meter, 8-hour average.

(ii)Nitrogen dioxide -- 14 micrograms per cubic meter, annual average.

(iii)Particulate matter -- 10 micrograms per cubic meter of PM-10, 24-hour average.

(iv)Sulfur dioxide -- 13 micrograms per cubic meter, 24-hour average.

(v)Ozone -- There is no de minimis air quality level for ozone. However, any net increase of 100 tons per year or more of volatile organic compounds subject to PSD would be required to perform an ambient impact analysis, including the gathering of ambient air quality data.

(vi)Lead -- 0.1 micrograms per cubic meter, 3-month average.

(vii)Fluorides -- 0.25 micrograms per cubic meter, 24-hour average.

(viii)Total reduced sulfur -- 10 micrograms per cubic meter, 1-hour average.

(ix)Hydrogen sulfide -- 0.2 micrograms per cubic meter, 1-hour average.

(x)Reduced sulfur compounds -- 10 micrograms per cubic meter, 1-hour average.

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(b)The concentrations of the pollutant in the area that the source or modification would affect are less than the concentrations listed in subdivision (a) of this subrule.

(c)The pollutant is not listed in subdivision (a) of this subrule.

History: 2006 MR 23, Eff. Dec. 4, 2006.

R 336.2810 Control technology review.

Rule 1810. (1)A major stationary source or major modification shall meet each applicable emissions limitation under the state implementation plan and each applicable emission standards and standard of performance under 40 C.F.R. parts 60 and 61, adopted by reference in R 336.2801a.

(2)A new major stationary source shall apply best available control technology for each regulated new source review pollutant that it would have the potential to emit in significant amounts.

(3)A major modification shall apply best available control technology for each regulated new source review pollutant for which it would be a significant net emissions increase at the source. This subrule applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change or change in the method of operation in the unit.

(4)For phased construction projects, the determination of best available control technology shall be reviewed and modified as appropriate at the latest reasonable time which occurs not later than 18 months before commencement of construction of each independent phase of the project. At such time, the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of best available control technology for the source.

History: 2006 MR 23, Eff. Dec. 4, 2006.

R 336.2811 Source impact analysis.

Rule 1811. The owner or operator of the proposed major source or major modification shall demonstrate that allowable emission increases from the proposed major source or major modification, in conjunction with all other applicable emissions increases or reduction, including secondary emissions, shall not cause or contribute to air pollution in violation of either of the following:

(a)Any national ambient air quality standard in any air quality control region.

(b)Any applicable maximum allowable increase over the baseline concentration in any area.

History: 2006 MR 23, Eff. Dec. 4, 2006.

R 336.2812 Air quality models.

Rule 1812. (1)All applications of air quality modeling involved in R 336.2801 to R 336.2819, R 336.2823, and R 336.2830 shall use the methods specified in R 336.1240.

(2)If an air quality model specified in R 336.1240 is inappropriate, then the model may only be modified or another model substituted with the written approval of the United States environmental protection agency. In addition, use of a modified or substituted model shall be subject to the notice and opportunity for public comment in R 336.2817.

History: 2006 MR 23, Eff. Dec. 4, 2006.

R 336.2813 Air quality analysis.

Rule 1813. (1)Preapplication analysis includes all of the following:

(a)Any application for a permit under this rule shall contain an analysis of ambient air quality in the area that the major stationary source or major modification would affect for each of the following pollutants:

(i)For the major source, each pollutant that it would have the potential to emit in a significant amount.

(ii)For the modification, each pollutant for which it would result in a significant net emissions increase.

(b)For a pollutant for which a national ambient air quality standard does not exist, the analysis shall contain air quality monitoring data required by the department to assess ambient air quality for that pollutant in any area that the emissions of that pollutant would affect.

(c)For a pollutant, other than nonmethane hydrocarbons, for which such a standard does exist, the analysis shall contain continuous air quality monitoring data gathered for determining whether emissions of that pollutant would cause or contribute to a violation of the standard or any maximum allowable increase.

(d)The continuous air monitoring data that is required shall have been gathered over a period of 1 year and shall represent the year preceding receipt of the application, except that, if the department determines that a complete and adequate analysis may be accomplished with monitoring data gathered over a period less than 1 year, but not less than 4 months, the data that is required shall have been gathered over at least that shorter period.

(e)The owner or operator of a proposed major stationary source or major modification of volatile organic compounds who satisfies all conditions of 40 C.F.R. part 51, appendix S, section IV, may provide post-approval monitoring data for ozone

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instead of providing preconstruction data as otherwise required by this rule. The provisions of 40 C.F.R., part 51, appendix S, section IV, are adopted by reference in R 336.2801a.

(2) For post-construction monitoring, the owner or operator of a major stationary source or major modification shall, after construction of the major stationary source or major modification, conduct such ambient monitoring as the department requires to determine the effect emissions from the major stationary source or major modification may have, or are having, on air quality in any area.

(3) For operation of monitoring stations, the owner or operator of a major stationary source or major modification shall meet the requirements of 40 C.F.R. part 58, appendix B, during the operation of monitoring stations for purposes of satisfying this rule. The provisions of 40 C.F.R., part 58, appendix B, are adopted by reference in R 336.2801a.

History: 2006 MR 23, Eff. Dec. 4, 2006.

R 336.2814 Source information.

Rule 1814. (1) The owner or operator of a proposed major source or major modification shall submit all information necessary to perform an analysis or make a determination required under this rule.

(2) Information shall include all of the following:

(a) A description of the nature, location, design capacity, and typical operating schedule of the major source or major modification, including specifications and drawings showing its design and plant layout.

(b) A detailed schedule for construction of the major source or major modification.

(c) A detailed description as to what system of continuous emission reduction is planned by the major source or major modification, emission estimates, and any other information to determine that best available control technology, as applicable, would be applied.

(3) Upon request of the department, the owner or operator shall provide information on both of the following:

(a) The air quality impact of the major source or major modification, including meteorological and topographical data necessary to estimate impact.

(b) The air quality impacts and the nature and extent of any or all general commercial, residential, industrial, and other growth which has occurred since August 7, 1977, in the area the major source or major modification would affect.

History: 2006 MR 23, Eff. Dec. 4, 2006.

R 336.2815 Additional impact analyses.

Rule 1815. (1) The owner or operator shall provide an analysis of the impairment to visibility, soils, and vegetation that would occur as a result of the major source or major modification and general commercial, residential, industrial, and other growth associated with the major source or major modification. The owner or operator need not provide an analysis of the impact on vegetation having no significant commercial or recreational value.

(2) The owner or operator shall provide an analysis of the air quality impact projected for the area as a result of general commercial, residential, industrial, and other growth associated with the major source or major modification.

History: 2006 MR 23, Eff. Dec. 4, 2006.

R 336.2816 Sources impacting federal class I areas; additional requirements.

Rule 1816. (1) The department shall transmit to the United States environmental protection agency a copy of each permit application relating to a major stationary source or major modification and provide notice to the United States environmental protection agency of every action related to the consideration of the permit.

(2) If the proposed major stationary source or major modification affects a federal class 1 area, the department shall not approve the permit application unless the applicant submits 1 of the following:

(a) A written certification that the applicant has demonstrated to the federal land manager that the emissions from the proposed major source or major modification would have no adverse impact on the air quality related values of class I lands, including visibility, notwithstanding that the change in air quality resulting from emissions from a major source or major modification would cause or contribute to concentrations, which would exceed the maximum allowable increases for a class I area. The department may then, provided that applicable requirements are otherwise met, issue the permit with emission limitations to assure that emissions of sulfur dioxide, particulate matter, and oxides of nitrogen would not exceed the following maximum allowable increases over minor source baseline concentration for the pollutants:

Table 183

Maximum allowable increases over minor source baseline concentrations

Pollutant	Maximum allowable increase (micrograms per cubic meter)
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Particulate matter:	
PM-10, annual arithmetic mean	17
PM-10, 24-hour maximum	30
Sulfur dioxide:	
Annual arithmetic mean	20
24-hour maximum	91
3-hour maximum	325
Nitrogen dioxide:	
Annual arithmetic mean	25

(b)A written certification that both the governor and the federal land manager have granted a sulfur dioxide variance for the federal class I area.

(c)A written certification that both the governor and the president have granted a sulfur dioxide variance for the federal class I area.

(d)The department will not issue a permit affecting a class I area in which a sulfur dioxide variance was granted under, unless the permit includes emission limitations necessary to assure that emissions of sulfur dioxide from the major source or major modification would not, during any day on which the otherwise applicable maximum allowable increases are exceeded, cause or contribute to concentrations which would exceed the following maximum allowable increases over the baseline concentration and to assure that emissions would not cause or contribute to concentrations which exceed the otherwise applicable maximum allowable increases for periods of exposure of 24 hours or less for more than 18 days, not necessarily consecutive, during any annual period.

Table 184

Maximum allowable sulfur dioxide increments

Period of exposure	Maximum Allowable Increase (micrograms per cubic meter)	
	Terrain areas	
	Low	High
24-hour maximum	36	62
3-hour maximum	130	221

History: 2006 MR 23, Eff. Dec. 4, 2006.

R 336.2817 Public participation.

Rule 1817.(1)The department shall notify all applicants within a specified time period as to the completeness of the application or any deficiency in the application or information submitted. If there is a deficiency, then the date of receipt of the application shall be the date on which the department received all required information.

(2)Within 120 days after receipt of a technically complete application, the department shall do all of the following:

(a)Make a preliminary determination whether construction should be approved, approved with conditions, or disapproved.

(b)Make available in at least 1 location in each region in which the proposed major source would be constructed a copy of all materials the applicant submitted, a copy of the preliminary determination, and a copy or summary of other materials, if any, considered in making the preliminary determination.

(c)Notify the public, by advertisement in a newspaper of general circulation in each region in which the proposed major source would be constructed, of the application, the preliminary determination, the degree of increment consumption that is expected from the major source or major modification, and of the opportunity for comment at a public hearing as well as written public comment.

(d)Send a copy of the notice of public comment to the applicant, to the United States environmental protection agency, and to officials and agencies having cognizance over the location where the proposed construction would occur. The notice shall also be sent to any other state or local air pollution control agencies; the chief executives of the city and county where the major source would be located; any comprehensive regional land use planning agency; and any state, federal land manager, or Indian governing body whose lands may be affected by emissions from the major source or major modification.

(e)Provide opportunity for a public hearing for interested persons to appear and submit written or oral comments on the air quality impact of the major source, alternatives to it, the control technology required, and other appropriate considerations.

(f)Consider all written comments submitted within a time specified in the notice of public comment and all comments

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received at any public hearing in making a final decision on the approvability of the application. The department shall make all comments available for public inspection in the same locations where the department made available preconstruction information relating to the proposed major source or major modification.

(g) Make a final determination whether construction should be approved, approved with conditions, or disapproved.

(h) Notify the applicant in writing of the final determination and make the notification available for public inspection at the same location where the department made available preconstruction information and public comments relating to the major source.

History: 2006 MR 23, Eff. Dec. 4, 2006.

R 336.2818 Source obligation.

Rule 1818.(1) Approval to construct shall not relieve an owner or operator of the responsibility to comply fully with applicable provisions of the state implementation plan and any other requirements under local, state, or federal law.

(2) If a particular major source or major modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the major source or major modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of R 336.2810 to R 336.2819 shall apply to the major source or major modification as though construction had not yet commenced on the major source or major modification.

(3) All of the following apply to projects at existing emissions units at a major stationary source, other than projects at a major source with a plantwide applicability limit, where the owner or operator elects to use the method in R 336.2801(II)(ii)(A) to (C) for calculating projected actual emissions.

(a) Before beginning actual construction of the project, the owner or operator shall document and maintain a record of all of the following information:

(i) A description of the project.

(ii) Identification of the emissions unit or units whose emissions of a regulated new major source review pollutant may be affected by the project.

(iii) A description of the applicability test used to determine that the project is not a major modification for any regulated new source review pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under R 336.2801(II)(ii)(C) and an explanation for why such amount was excluded, and any netting calculations, if applicable.

(b) If the emissions unit is an existing electric utility steam generating unit, then before beginning actual construction, the owner or operator shall provide a copy of the information required by subdivision (a) of this subrule to the department. This subdivision does not require the owner or operator of the unit to obtain any determination from the department before beginning actual construction.

(c) The owner or operator shall monitor the emissions of a regulated new source review pollutant that could increase as a result of the project and that is emitted by any emissions unit identified in subdivision (a)(ii) of this subrule; and calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis, for a period of 5 years following resumption of regular operations after the change, or for a period of 10 years following resumption of regular operations after the change if the project increases the design capacity or potential to emit of that regulated new major source review pollutant at the emissions unit.

(d) If the unit is an existing electric utility steam generating unit, then the owner or operator shall submit a report to the department within 60 days after the end of each year during which records are generated under subdivision (c) of this subrule setting out the unit's annual emissions during the calendar year before submission of the report.

(e) If the unit is an existing unit other than an electric utility steam generating unit, then the owner or operator shall submit a report to the department if the annual emissions, in tons per year, from the project exceed the baseline actual emissions by a significant amount for that regulated new source review pollutant, and if such emissions differ from the preconstruction projection. The owner or operator shall submit the report to the department within 60 days after the end of such year. The report shall contain all of the following:

(i) The name, address, and telephone number of the major stationary source.

(ii) The annual emissions as calculated under subdivision (c) of this subrule.

(iii) Any other information that the owner or operator wishes to include in the report; for example, an explanation as to why the emissions differ from the preconstruction projection.

(4) The owner or operator of the major source shall make the information required to be documented and maintained under this rule available for review upon request for inspection by the department or the general public under MCL 324.5516(2).

History: 2006 MR 23, Eff. Dec. 4, 2006.

R 336.2819 Innovative control technology.

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Rule 1819.(1)An owner or operator of a proposed major stationary source or major modification may request the department to approve a system of innovative control technology.

(2)The department may, with notice to and advice from each affected state, determine that the major source or major modification may employ a system of innovative control technology, if all of the following occurs:

(a)The proposed control system would not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function.

(b)The owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required by R 336.2810(2), by a date specified by the department. The date shall not be later than 4 years from the time of startup or 7 years from permit issuance.

(c)The major source or major modification would meet the requirements equivalent to those in R 336.2810 and R 336.2811, based on the emissions rate that the major stationary source employing the system of innovative control technology would be required to meet on the date specified by the department.

(d)The major source or major modification would not do either of the following before the date specified by the department:

(i)Cause or contribute to any violation of an applicable national ambient air quality standard.

(ii)Impact any area where an applicable increment is known to be violated.

(e)All other applicable requirements including those for public participation have been met.

(f)The provisions of R 336.2816, relating to class I areas, have been satisfied with respect to all periods during the life of the major source or major modification.

(3)The department shall withdraw an approval to employ a system of innovative control technology made under this rule, if any of the following occurs:

(a)The proposed system fails by the specified date to achieve the required continuous emissions reduction rate.

(b)The proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare, or safety.

(c)The department decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare, or safety.

(4)If a major source or major modification fails to meet the required level of continuous emissions reduction within the specified time period, or if the approval is withdrawn under subrule (3) of this rule, then the department may allow the major source or major modification up to an additional 3 years to meet the requirement for the application of best available control technology through use of a demonstrated system of control.

History: 2006 MR 23, Eff. Dec. 4, 2006.

R 336.2823 Actuals plantwide applicability limits (PALs).

Rule 1823.(1)The following definitions apply to the use of actuals PALs consistent with this rule. If a term is not defined in these paragraphs, it shall have the meaning given in R 336.2801 or R 336.1101 to R 336.1127.

(a)“Actuals PAL for a major stationary source” means a PAL based on the baseline actual emissions of all emissions units at the major source that emit or have the potential to emit the PAL pollutant.

(b)“Allowable emissions” means allowable emissions as defined in R 336.2801, except as this definition is modified by the following:

(i)The allowable emissions for any emissions unit shall be calculated considering any emission limitations that are enforceable as a practical matter on the emissions unit's potential to emit.

(ii)An emissions unit's potential to emit shall be determined using the definition in R 336.2801, except that the words "or enforceable as a practical matter" should be added after "federally enforceable."

(c)“Small emissions unit” means an emissions unit that emits or has the potential to emit the PAL pollutant in an amount less than the significant level for that PAL pollutant, as defined in R 336.2801 or in the clean air act, whichever is lower.

(d)“Major emissions unit” means either of the following:

(i)Any emissions unit that emits or has the potential to emit 100 tons per year or more of the PAL pollutant in an attainment area.

(ii)Any emissions unit that emits or has the potential to emit the PAL pollutant in an amount that is equal to or greater than the major source threshold for the PAL pollutant as defined by the clean air act for nonattainment areas.

(e)“Plantwide applicability limitation” or “PAL” means an emission limitation expressed in tons per year, for a pollutant at a major stationary source, that is enforceable as a practical matter and established source-wide in accordance with this rule.

(f)“PAL effective date” means the date of issuance of the PAL permit. However, the PAL effective date for an increased PAL is the date any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

(g)“PAL effective period” means the period beginning with the PAL effective date and ending 10 years later.

(h)“PAL major modification” means, notwithstanding the definitions for major modification and net emissions increase, any

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physical change in or change in the method of operation of the PAL major source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL.

(i) "PAL permit" means the permit to install issued under R 336.1201(1)(a) or R 336.1214a that establishes a PAL for a major stationary source.

(j) "PAL pollutant" means the pollutant for which a PAL is established at a major stationary source.

(k) "Significant emissions unit" means an emissions unit that emits or has the potential to emit a PAL pollutant in an amount that is equal to or greater than the significant level, as defined in R 336.2801 or in the clean air act, whichever is lower, for that PAL pollutant, but less than the amount that would qualify the unit as a major emissions unit.

(2) The following provisions describe the applicability of other federal regulations to major sources with PALs:

(a) The department may approve the use of an actuals PAL for any existing major stationary source if the PAL meets all of the requirements of this rule. The term "PAL" shall mean "actuals PAL" in this rule.

(b) Any physical change in or change in the method of operation of a major stationary source that maintains its total source-wide emissions below the PAL level, meets the requirements of this rule, and complies with the PAL permit. If the change complies with the PAL permit, then the following statements apply:

(i) The change is not a major modification for the PAL pollutant.

(ii) The change does not have to otherwise be approved under prevention of significant deterioration of air quality regulations or new source review for major sources in nonattainment areas regulations.

(iii) The change is not subject to R 336.2818(2), restrictions on relaxing enforceable emission limitations that the major stationary source used to avoid applicability of the major new source review program.

(c) Except as provided under subdivision (b)(iii) of this subrule, a major stationary source shall continue to comply with all applicable federal or state requirements, emission limitations, and work practice requirements that were established before the effective date of the PAL.

(3) As part of a permit application requesting a PAL, the owner or operator of a major stationary source shall submit the following information to the department for approval:

(a) A list of all emissions units at the major source designated as small, significant or major based on their potential to emit. In addition, the owner or operator of the major source shall indicate which, if any, federal or state applicable requirements, emission limitations, or work practices apply to each unit.

(b) Calculations of the baseline actual emissions with supporting documentation. Baseline actual emissions shall include emissions associated not only with operation of the unit, but also emissions associated with startup, shutdown, and malfunction.

(c) The calculation procedures that the major stationary source owner or operator proposes to use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by subrule (13)(a) of this rule.

(4) The following requirements establish PALs:

(a) The department may establish a PAL at a major stationary source, provided that, at a minimum, the following requirements are met:

(i) The PAL shall impose an annual emission limitation in tons per year, that is enforceable as a practical matter, for the entire major stationary source. For each month during the PAL effective period after the first 12 months of establishing a PAL, the major stationary source owner or operator shall show that the sum of the monthly emissions from each emissions unit under the PAL for the previous 12 consecutive months is less than the PAL, a 12-month average rolled monthly. For each month during the first 11 months from the PAL effective date, the major stationary source owner or operator shall show that the sum of the preceding monthly emissions from the PAL effective date for each emissions unit under the PAL is less than the PAL.

(ii) The PAL shall be established in a PAL permit that meets the public participation requirements in subrule (5) of this rule.

(iii) The PAL permit shall comply with subrule (7) of this rule.

(iv) The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions units that emit or have the potential to emit the PAL pollutant at the major stationary source.

(v) Each PAL shall regulate emissions of only 1 pollutant.

(vi) Each PAL shall have a PAL effective period of 10 years.

(vii) The owner or operator of the major stationary source with a PAL shall comply with the monitoring, recordkeeping, and reporting requirements provided in subrules (12) to (14) of this rule for each emissions unit under the PAL through the PAL effective period.

(b) Emissions reductions of a PAL pollutant that occur during the PAL effective period are not creditable as decreases for emissions offsets unless the level of the PAL is reduced by the amount of the emissions reductions and the reductions would be creditable in the absence of the PAL.

(5) PALs for existing major stationary sources shall be established, renewed, or increased, through a permit to install issued under R 336.1201(1)(a). The department shall provide the public with notice of the proposed approval of a PAL permit and at

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least a 30-day period for submittal of public comment. The department shall address all material comments before taking final action on the permit.

(6)The following apply to setting the 10-year actuals PAL level:

(a)Except as provided in subdivision (b) of this subrule, the actuals PAL level for a major stationary source shall be established as the sum of the baseline actual emissions of the PAL pollutant for each emissions unit at the major source; plus an amount equal to the applicable significant level for the PAL pollutant as defined in R 336.2801 or the clean air act, whichever is lower. When establishing the actuals PAL level, for a PAL pollutant, only 1 consecutive 24-month period shall be used to determine the baseline actual emissions for all existing emissions units. However, a different consecutive 24-month period may be used for each different PAL pollutant. Emissions associated with units that were permanently shut down after this 24-month period shall be subtracted from the PAL level. The department shall specify a reduced PAL level, in tons per year, in the PAL permit to become effective on the future compliance dates of any applicable federal or state regulatory requirement before issuance of the PAL permit. For example, if the major source owner or operator will be required to reduce emissions from industrial boilers in half from baseline emissions of 60 parts per million oxides of nitrogen to a new rule limit of 30 parts per million, then the permit shall contain a future effective PAL level that is equal to the current PAL level reduced by half of the original baseline emissions of the units.

(b)For newly constructed units, which do not include modifications to existing units, on which actual construction began after the 24-month period, instead of adding the baseline actual emissions as specified in subdivision (a) of this subrule, the emissions shall be added to the PAL level in an amount equal to the potential to emit of the units.

(7)The PAL permit shall contain, at a minimum, all of the following information:

(a)The PAL pollutant and the applicable source-wide emission limitation in tons per year.

(b)The PAL permit effective date and the expiration date of the PAL (PAL effective period).

(c)Specification in the PAL permit that if a major stationary source owner or operator applies to renew a PAL under subrule (10) of this rule before the end of the PAL effective period, then the PAL shall not expire at the end of the PAL effective period. It shall remain in effect until a revised PAL permit is issued by the department.

(d)A requirement that emission calculations for compliance purposes include emissions from startups, shutdowns, and malfunctions.

(e)A requirement that, once the PAL expires, the major stationary source is subject to subrule (9) of this rule.

(f)The calculation procedures that the major stationary source owner or operator shall use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total for each month as required by subrule (3)(a) of this rule.

(g)A requirement that the major stationary source owner or operator monitor all emissions units in accordance with the provisions under subrule (13) of this rule.

(h)A requirement to retain the records required under subrule (13) of this rule on site. The records may be retained in an electronic format.

(i)A requirement to submit the reports required under subrule (14) of this rule by the required deadlines.

(j)Any other requirements that the department determines necessary to implement and enforce the PAL.

(8)All of the following apply to the PAL effective period and reopening of the PAL permit:

(a)The department shall specify a PAL effective period of 10 years.

(b)All of the following apply to reopening of the PAL permit.

(i)During the PAL effective period, the department shall reopen the PAL permit to do any of the following:

(A)Correct typographical and calculation errors made in setting the PAL or reflect a more accurate determination of emissions used to establish the PAL.

(B)Reduce the PAL if the owner or operator of the major stationary source creates creditable emissions reductions for use as offsets under new source review for major sources in nonattainment areas regulations.

(C)Revise the PAL to reflect an increase in the PAL as provided under subrule (11) of this rule.

(ii)The department may reopen the PAL permit to accomplish any of the following:

(A)Reduce the PAL to reflect newly applicable federal requirements with compliance dates after the PAL effective date.

(B)Reduce the PAL consistent with any other requirement that is enforceable as a practical matter and that the state may impose on the major stationary source under the state implementation plan.

(C)Reduce the PAL if the department determines that a reduction is necessary to avoid causing or contributing to a national ambient air quality standard or PSD increment violation, or to an adverse impact on an air quality related value that has been identified for a federal class I area by a federal land manager and for which information is available to the general public.

(iii)Except for a permit reopening for the correction of typographical and calculation errors that do not increase the PAL level, all reopenings shall be carried out in accordance with the public participation requirements of subrule (5) of this rule.

(9)Any PAL that is not renewed in accordance with subrule (10) of this rule shall expire at the end of the PAL effective period, and the following requirements shall apply:

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(a) Each emissions unit, or each group of emissions units, that existed under the PAL shall comply with an allowable emission limitation under a revised permit established according to both of the following:

(i) Within the time frame specified for PAL renewals in subrule (10)(b) of this rule, the major stationary source shall submit a proposed allowable emission limitation for each emissions unit, or each group of emissions units, if such a distribution is more appropriate as determined by the department, by distributing the PAL allowable emissions for the major stationary source among each of the emissions units that existed under the PAL. If the PAL had not yet been adjusted for an applicable requirement that became effective during the PAL effective period, as required under subrule (10)(e) of this rule, the distribution shall be made as if the PAL had been adjusted.

(ii) The department shall determine whether and how the PAL allowable emissions shall be distributed and issue a revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as the department determines is appropriate.

(b) Each emissions unit shall comply with the allowable emission limitation on a 12-month rolling basis. The department may approve the use of monitoring systems, such as source testing and emission factors, other than CEMS, CERMS, PEMS or CPMS to demonstrate compliance with the allowable emission limitation.

(c) Until the department issues the revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required under subrule (9)(a)(ii) of this rule, the major source shall continue to comply with a source-wide, multiunit emissions cap equivalent to the level of the PAL emission limitation.

(d) Any physical change or change in the method of operation at the major stationary source shall be subject to major new source review requirements if such change meets the definition of major modification in R 336.2801.

(e) The major stationary source owner or operator shall continue to comply with any state or federal applicable requirements that may have applied either during the PAL effective period or before the PAL effective period, except for those emission limitations that had been established under R 336.2818(2), but were eliminated by the PAL under subrule (2)(b)(iii) of this rule.

(10) All of the following apply to renewal of a PAL:

(a) The department shall comply with subrule (5) of this rule in approving any request to renew a PAL for a major stationary source and shall provide both the proposed PAL level and a written rationale for the proposed PAL level to the public for review and comment. During public review, any person may propose a PAL level for the major source for consideration by the department.

(b) A major stationary source owner or operator shall submit a timely application to the department to request renewal of a PAL. A timely application is one that is submitted at least 6 months before, but not earlier than 18 months from, the date of permit expiration. This deadline for application submittal is to ensure that the permit will not expire before the permit is renewed. If the owner or operator of a major stationary source submits a complete application to renew the PAL within this time period, then the PAL shall continue to be effective until the revised permit with the renewed PAL is issued.

(c) The application to renew a PAL permit shall contain all of the following information:

(i) The information required in subrule (3)(a) to (c) of this rule.

(ii) A proposed PAL level.

(iii) The sum of the potential to emit of all emissions units under the PAL, with supporting documentation.

(iv) Any other information the owner or operator requests the department to consider in determining the appropriate level for renewing the PAL.

(d) In determining whether and how to adjust the PAL, the department shall consider the following:

(i) If the emissions level calculated in accordance with subrule (6) of this rule is equal to or greater than 80% of the PAL level, the department may renew the PAL at the same level without considering the factors in subrule (10)(d)(ii) of this rule.

(ii) The department may set the PAL at a level that it determines to be more representative of the major source's baseline actual emissions, or that it determines to be appropriate considering air quality needs, advances in control technology, anticipated economic growth in the area, desire to reward or encourage the major source's voluntary emissions reductions, or other factors as specifically identified by the department in its written rationale.

(iii) Notwithstanding subrule (10)(d)(i) and (ii) of this rule, both of the following shall apply:

(A) If the potential to emit of the major stationary source is less than the PAL, then the department shall adjust the PAL to a level not greater than the potential to emit of the major source.

(B) The department shall not approve a renewed PAL level higher than the current PAL, unless the major stationary source has complied with subrule (11) of this rule.

(e) If the compliance date for a state or federal requirement that applies to the PAL major source occurs during the PAL effective period, and if the department has not already adjusted for the requirement, then the PAL shall be adjusted at the time of PAL permit renewal or renewable operating permit renewal, whichever occurs first.

(11) The following shall apply to increasing a PAL during the PAL effective period:

(a) The department may increase a PAL emission limitation only if the major stationary source complies with the following

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provisions:

(i)The owner or operator of the major stationary source shall submit a complete application to request an increase in the PAL limit for a PAL major modification. The application shall identify the emissions units contributing to the increase in emissions so as to cause the major stationary source's emissions to equal or exceed its PAL.

(ii)As part of this application, the major stationary source owner or operator shall demonstrate that the sum of the baseline actual emissions of the small emissions units, plus the sum of the baseline actual emissions of the significant and major emissions units assuming application of BACT equivalent controls, plus the sum of the allowable emissions of the new or modified emissions units, exceeds the PAL. The level of control that would result from BACT equivalent controls on each significant or major emissions unit shall be determined by conducting a new BACT analysis at the time the application is submitted, unless the emissions unit is currently required to comply with a BACT or LAER requirement that was established within the preceding 10 years. In such a case, the assumed control level for that emissions unit shall be equal to the level of BACT or LAER with which that emissions unit must currently comply.

(iii)The owner or operator obtains a major new source review permit for all emissions units identified in subrule (11)(a)(i) of this rule, regardless of the magnitude of the emissions increase resulting from them, that is, no significant levels apply. These emissions units shall comply with any emissions requirements resulting from the major new source review process, even though they have also become subject to the PAL or continue to be subject to the PAL.

(iv)The PAL permit shall require that the increased PAL level shall be effective on the day any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

(b)The department shall calculate the new PAL as the sum of the allowable emissions for each modified or new emissions unit, plus the sum of the baseline actual emissions of the significant and major emissions units, assuming application of BACT equivalent controls as determined under subdivision (a)(ii) of this subrule, plus the sum of the baseline actual emissions of the small emissions units.

(c)The PAL permit shall be revised to reflect the increased PAL level under the public notice requirements of subrule (5) of this rule.

(12)The following are monitoring requirements for PALs:

(a)All of the following general provisions are required:

(i)Each PAL permit shall contain enforceable requirements for the monitoring system that accurately determine plantwide emissions of the PAL pollutant in terms of mass per unit of time. Any monitoring system authorized for use in the PAL permit shall be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation. Additionally, the information generated by the system shall meet minimum legal requirements for admissibility in a judicial proceeding to enforce the PAL permit.

(ii)The PAL monitoring system shall employ 1 or more of the 4 general monitoring approaches in subdivision (b) of this subrule and shall be approved by the department.

(iii)Notwithstanding paragraph (ii) of this subdivision, the PAL may also employ an alternative monitoring approach that meets paragraph (i) of this subdivision if approved by the department.

(iv)Failure to use a monitoring system that meets the requirements of this rule renders the PAL invalid.

(b)The following are acceptable general monitoring approaches when conducted in accordance with subdivisions (c) to (i) of this subrule:

(i)Mass balance calculations for activities using coatings or solvents.

(ii)CEMS.

(iii)CPMS or PEMS.

(iv)Emission factors.

(c)An owner or operator using mass balance calculations to monitor PAL pollutant emissions from activities using coating or solvents shall meet all of the following requirements:

(i)Provide a demonstrated means of validating the published content of the PAL pollutant that is contained in or created by all materials used in or at the emissions unit.

(ii)Assume that the emissions unit emits all of the PAL pollutant that is contained in or created by any raw material or fuel used in or at the emissions unit, if it cannot otherwise be accounted for in the process.

(iii)Where the vendor of a material or fuel, which is used in or at the emissions unit, publishes a range of pollutant content from such material, then the owner or operator shall use the highest value of the range to calculate the PAL pollutant emissions unless the department determines there is site-specific data or a site-specific monitoring program to support another content within the range.

(d)An owner or operator using CEMS to monitor PAL pollutant emissions shall meet both of the following requirements:

(i)CEMS shall comply with applicable performance specifications found in 40 C.F.R. part 60, appendix B, adopted by reference in R 336.2801a.

(ii)CEMS shall sample, analyze, and record data at least every 15 minutes while the emissions unit is operating.

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(e)An owner or operator using CPMS or PEMS to monitor PAL pollutant emissions shall meet both of the following requirements:

(i)The CPMS or the PEMS shall be based on current site-specific data demonstrating a correlation between the monitored parameters and the PAL pollutant emissions across the range of operation of the emissions unit.

(ii)Each CPMS or PEMS shall sample, analyze, and record data at least every 15 minutes, or at another less frequent interval approved by the department, while the emissions unit is operating.

(f)An owner or operator using emission factors to monitor PAL pollutant emissions shall meet all of the following requirements:

(i)All emission factors shall be adjusted, if appropriate, to account for the degree of uncertainty or limitations in the factors' development.

(ii)The emissions unit shall operate within the designated range of use for the emission factor, if applicable.

(iii)If technically practicable, the owner or operator of a significant emissions unit that relies on an emission factor to calculate PAL pollutant emissions shall conduct validation testing to determine a site-specific emission factor within 6 months of PAL permit issuance, unless the department determines that testing is not required.

(g)A major source owner or operator shall record and report maximum potential emissions without considering enforceable emission limitations or operational restrictions for an emissions unit during any period of time that there is no monitoring data, unless another method for determining emissions during such periods is specified in the PAL permit.

(h)Notwithstanding the requirements in subdivisions (c) to (g) of this subrule, if an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored parameters and the PAL pollutant emissions rate at all operating points of the emissions unit, then the department shall do either of the following at the time of permit issuance:

(i)Establish default values for determining compliance with the PAL based on the highest potential emissions reasonably estimated at each unmonitored operating point.

(ii)Determine that operation of the emissions unit during operating conditions when there is no correlation between monitored parameters and the PAL pollutant emissions is a violation of the PAL.

(i)All data used to establish the PAL pollutant shall be revalidated through performance testing or other scientifically valid means approved by the department. Testing shall occur at least once every 5 years after issuance of the PAL.

(13)The PAL permit shall require the following recordkeeping requirements:

(a)Require an owner or operator to retain a copy of all records necessary to determine compliance with this rule and the PAL, including a determination of each emissions unit's 12-month rolling total emissions, for 5 years from the date of such record.

(b)Require an owner or operator to retain a copy of all of the following records, for the duration of the PAL effective period plus 5 years:

(i)A copy of the PAL permit application and any applications for revisions to the PAL.

(ii)Each annual certification of compliance under the renewable operating permit and the data relied on in certifying compliance.

(14)The owner or operator shall submit semiannual monitoring reports and prompt deviation reports to the department in accordance with the applicable renewable operating permit program. The reports shall meet the following requirements:

(a)The semiannual report shall be submitted to the department concurrently with the semiannual report required by the renewable operating permit for the stationary source. The report shall contain all of the following information:

(i)The identification of owner and operator and the permit number.

(ii)Total annual emissions in tons per year based on a 12-month rolling total for each month in the reporting period recorded under subrule (13)(a) of this rule.

(iii)All data relied upon, including, but not limited to, any quality assurance or quality control data, in calculating the monthly and annual PAL pollutant emissions.

(iv)A list of emissions units modified or added to the major stationary source during the preceding 6-month period.

(v)The number, duration, and cause of deviations or monitoring malfunctions, other than the time associated with zero and span calibration checks, and any corrective action taken.

(vi)A notification of a shutdown of any monitoring system, whether the shutdown was permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully operational or replaced with another monitoring system, and whether the emissions unit monitored by the monitoring system continued to operate, and the calculation of the emissions of the pollutant or the number determined by method included in the permit, as provided by subrule (12)(g) of this rule.

(vii)A signed statement by the responsible official, as defined by the applicable renewable operating permit program, certifying the truth, accuracy, and completeness of the information provided in the report.

(b)The major stationary source owner or operator shall promptly submit reports of any deviations or exceedance of the PAL requirements, including periods where monitoring is not available. A report submitted under R 336.1213(3)(c) shall satisfy the reporting requirement. The deviation reports shall be submitted within the time limits prescribed by the major source's

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renewable operating permit. The reports shall contain all of the following information:

- (i) The identification of owner and operator and the permit number.
- (ii) The PAL requirement that experienced the deviation or that was exceeded.
- (iii) Emissions resulting from the deviation or the exceedance.
- (iv) A signed statement by the responsible official, as defined by the renewable operating permit, certifying the truth, accuracy, and completeness of the information provided in the report.
- (c) The owner or operator shall submit to the department the results of any revalidation test or method within 3 months after completion of the test or method.
- (15) The owner or operator of a facility complying with an actuals PAL may install a new emissions unit without first obtaining a permit to install under R 336.1201, if the following requirements are met:
 - (a) The new emissions unit will not cause a meaningful change in the nature or quantity of toxic air contaminants emitted from the major stationary source, unless the new emissions unit is otherwise exempt under R 336.1278 to R 336.1290. In determining whether the new emissions unit will cause a meaningful change in the nature or quantity of toxic air contaminants, the following shall apply:
 - (i) The owner or operator shall demonstrate to the department that a meaningful change in the nature or quantity of toxic air contaminants has not occurred. The owner or operator may devise its own method to perform this demonstration subject to approval by the department. However, if the applicant demonstrates that all toxic air contaminant emissions from a new emissions unit are within the levels specified in R 336.1226 or R 336.1227, then a meaningful change in toxic air contaminants has not occurred.
 - (ii) If, using the methods described in paragraph (i) of this subdivision, the owner or operator determines that the installation of new emission units will cause a meaningful change in the nature or quantity of toxic air contaminant emissions, then the owner or operator shall obtain a state-only enforceable permit to install under R 336.1201(1)(b).
 - (iii) A copy of the demonstration required by paragraph (i) of this subdivision shall be kept on site for the life of the new emissions unit and made available to the department upon request.
 - (b) The new emissions unit will not emit a regulated new source review pollutant that is not subject to a PAL, unless the new emissions unit is eligible for an exemption listed in R 336.1201 to R 336.1290.
 - (c) The new emissions unit will not be a newly constructed or reconstructed major source of hazardous air pollutants.
 - (d) The installation of the new emissions unit will not cause the violation of any other applicable requirement.
 - (e) The owner or operator shall notify the department of the installation of a new emissions unit using the procedure specified in R 336.1215(3)(c).

History: 2006 MR 23, Eff. Dec. 4, 2006.

R 336.2830 Administrative hearings.

Rule 1830. A person aggrieved by an action or inaction of the department under prevention of significant deterioration of air quality regulations may request a formal hearing, under 1969 PA 306, MCL 24.201. The following apply:

- (a) The request shall be received by the department within 30 days after the person received notice of the decision to approve or deny the permit.
- (b) The final decision in granting a contested case hearing lies with the department. To receive a contested case hearing, a person shall demonstrate 1 of the following:
 - (i) The person is the permit applicant.
 - (ii) The person participated in the permit review process, either by submitting written comments during the 30-day public notice period or by attending the public hearing and making comments for the official record, and the comments were not adequately addressed by the department in the permit review process.
 - (iii) The terms or conditions of the permit for which the person requests a hearing were added by the department after the 30-day notice period expired, and no additional opportunity for public input was offered by the department.
- (c) When the department issues a permit pursuant to the requirements of the prevention of significant deterioration of air quality regulations or new source review for major sources in nonattainment areas regulations, the permit is valid upon issuance and it is not automatically stayed if a person requests a formal hearing pursuant to this rule. A permittee may immediately initiate construction after permit issuance. However, the permittee faces the risk that a subsequent hearing may alter the terms or conditions of the permit.

History: 2006 MR 23, Eff. Dec. 4, 2006.

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AUDIOLOGIST - GENERAL RULES

R 338.1
Source: 2005 AACs.

R 338.2
Source: 2005 AACs.

R 338.3
Source: 2005 AACs.

R 338.4
Source: 2005 AACs.

R 338.5
Source: 2005 AACs.

R 338.6
Source: 2005 AACs.

R 338.7
Source: 2005 AACs.

R 338.8
Source: 2005 AACs.

R 338.9
Source: 2005 AACs.

R 338.10
Source: 2005 AACs.

R 338.11
Source: 2005 AACs.

R 338.12
Source: 2005 AACs.

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

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DECLARATORY RULINGS

R 338.81
Source: 2001 AACs.

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OSTEOPATHIC MEDICINE AND SURGERY—CONTINUING EDUCATION

R 338.91
Source: 1991 AACs.

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R 338.93
Source: 1991 AACS.

R 338.94
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R 338.97
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R 338.99
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PART 1. GENERAL PROVISIONS

R 338.101
Source: 1989 AACS.

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PART 2. ADMINISTRATIVE HEARINGS

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Source: 1997 AACS.

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Source: 1997 AACS.

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R 338.133
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R 338.134
Source: 1997 AACS.

OPTOMETRY—PUBLIC PARTICIPATION AT OPEN BOARD MEETINGS

R 338.241
Source: 1980 AACS.

R 338.251
Source: 2003 AACS.

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R 338.261
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R 338.282
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ONE-DAY EDUCATIONAL PROGRAMS

R 338.291
Source: 1998-2000 AACs.

R 338.292
Source: 1997 AACs.

BOARD OF REGISTRATION IN PODIATRY
SCOPE OF EXAMINATIONS FOR LICENSURE

R 338.311
Source: 1997 AACs.

R 338.312
Source: 1997 AACs.

BOARD OF PODIATRIC MEDICINE AND SURGERY
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R 338.341
Source: 1997 AACs.

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Source: 1986 AACS.
- R 338.472**
Source: 1980 AACS.
- R 338.473**
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- R 338.473a**
Source: 1986 AACS.
- R 338.473b**
Source: 1997 AACS.
- R 338.473c**
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- R 338.473d**
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- R 338.474**
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- R 338.474a**
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- R 338.475**
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- R 338.476**
Source: 1980 AACS.
- R 338.477**
Source: 1998-2000 AACS.
- R 338.477b**
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- R 338.479**
Source: 1980 AACS.
- R 338.479b**
Source: 1998-2000 AACS.
- R 338.479c**
Source: 1998-2000 AACS.
- R 338.480**
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- R 338.480a**
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R 338.481
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R 338.485x
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R 338.485y
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R 338.486
Source: 1998-2000 AACS.

R 338.488
Source: 1990 AACS.

R 338.489
Source: 1981 AACS.

R 338.490
Source: 1998-2000 AACS.

PART 2. MANUFACTURING AND DISTRIBUTION OF PRESCRIPTION DRUGS

R 338.493a
Source: 1998-2000 AACS.

R 338.493b
Source: 1992 AACS.

R 338.493c
Source: 1992 AACS.

R 338.493d
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R 338.493e
Source: 1998-2000 AACS.

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Source: 1981 AACS.

R 338.493g
Source: 1992 AACS.

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Source: 1997 AACS.

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Source: 1998-2000 AACS.

R 338.496
Source: 1998-2000 AACS.

R 338.497
Source: 1981 AACS.

PART 3. MEDICATION DRUG BOX EXCHANGE PROGRAMS FOR HOSPICE

R 338.500
Source: 1995 AACS.

**BOARD OF REGISTRATION FOR ARCHITECTS,
PROFESSIONAL ENGINEERS, AND LAND SURVEYORS**
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R 338.551
Source: 1997 AACS.

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Source: 1997 AACS.

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R 338.561
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R 338.581
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R 338.582
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R 338.583
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R 338.588
Source: 1997 AACS.

BOARD OF EXAMINERS IN MORTUARY SCIENCE

GENERAL RULES

R 338.863
Source: 1997 AACS.

R 338.864
Source: 1997 AACS.

R 338.865
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R 338.867
Source: 1997 AACS.

R 338.868
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R 338.869
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R 338.881
Source: 1997 AACS.

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R 338.901
Source: 1986 AACS.

R 338.902
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R 338.903
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R 338.904
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R 338.914
Source: 1986 AACS.

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R 338.921
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R 338.922
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R 338.926
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R 338.930
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R 338.931
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R 338.941
Source: 1998-2000 AACS.

R 338.942
Source: 1981 AACS.

R 338.943
Source: 1981 AACS.

R 338.944
Source: 1980 AACS.

**HEALTH CODE BOARDS DISCIPLINARY
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R 338.951
Source: 1980 AACS.

R 338.952

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Source: 1996 AACS.

R 338.953

Source: 1980 AACS.

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R 338.974
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R 338.978
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R 338.980
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R 338.989
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R 338.1001
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R 338.1002
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R 338.1004
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R 338.1009
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R 338.1232
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R 338.1258
Source: 1997 AACS.

R 338.1259
Source: 1997 AACS.

R 338.1260
Source: 1997 AACS.

R 338.1261
Source: 1997 AACS.

R 338.1262
Source: 1997 AACS.

R 338.1263
Source: 1997 AACS.

R 338.1264
Source: 1997 AACS.

R 338.1265
Source: 1997 AACS.

BOARD OF PROFESSIONAL COMMUNITY PLANNERS

GENERAL RULES

R 338.1301
Source: 1997 AACS.

APPLICATIONS

R 338.1303
Source: 1997 AACS.

R 338.1304
Source: 1997 AACS.

R 338.1305
Source: 1997 AACS.

R 338.1306
Source: 1997 AACS.

R 338.1307

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Source: 1997 AACS.

EXAMINATIONS

R 338.1311

Source: 1997 AACS.

R 338.1312

Source: 1997 AACS.

R 338.1313

Source: 1997 AACS.

R 338.1314

Source: 1997 AACS.

R 338.1315

Source: 1997 AACS.

REGISTRATION

R 338.1321

Source: 1997 AACS.

R 338.1322

Source: 1997 AACS.

R 338.1323

Source: 1997 AACS.

R 338.1324

Source: 1997 AACS.

HEARINGS

R 338.1341

Source: 1997 AACS.

R 338.1342

Source: 1997 AACS.

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HOROLOGY

R 338.1401

Source: 1997 AACS.

R 338.1402

Source: 1997 AACS.

R 338.1403

Source: 1997 AACS.

R 338.1404

Source: 1997 AACS.

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R 338.1405
Source: 1997 AACS.

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R 338.1410
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R 338.1411
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R 338.1412
Source: 1997 AACS.

R 338.1413
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R 338.1414
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R 338.1415
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R 338.1416
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R 338.1418
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R 338.1420
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R 338.1421
Source: 1997 AACS.

R 338.1422
Source: 1997 AACS.

R 338.1423
Source: 1997 AACS.

R 338.1424
Source: 1997 AACS.

RESIDENTIAL BUILDERS' AND MAINTENANCE AND ALTERATION CONTRACTORS' BOARD

GENERAL RULES

PART 1. GENERAL

R 338.1511 Definitions.

Rule 11. As used in these rules:

- (1) "Act" means 1980 PA 299, MCL 339.101, known as the occupational code.
- (b) "Board" means the state residential builders and maintenance and alteration contractors board.
- (c) "Builder" means a residential builder as defined by the act.
- (d) "Contractor" means a residential maintenance and alteration contractor as defined by the act.
- (e) "Department" means the department of labor and economic growth.
- (f) "Director" means the director of labor and economic growth.

History: 1954 ACS 49, Eff. Feb. 14, 1967; 1979 AC; 2006 MR10, Eff. May 19, 2006.

R 338.1512

Source: 1998-2000 AACCS.

R 338.1519

Source: 1990 AACCS.

R 338.1521 Applications for licenses

Rule 21. (1) An application for a license shall include the residence address of all individuals, partners, officers and/or members, as requested by the department, and the address of the principal place of business in Michigan. A nonresident applicant for licensure shall maintain a place of business in Michigan, and the application shall include the address of the Michigan place of business and the address of the applicant's principal place of business outside of Michigan. A nonresident applicant shall file a consent to service with the application. A foreign corporation or a foreign limited liability company shall submit evidence of qualification to do business in Michigan.

(2) Applicants shall furnish documentation as determined acceptable by the department to verify the applicant's current business structure. Documents include, but are not limited to, the following:

- (a) For an application for an individual license using an assumed name, a copy of the current filed assumed name certificate issued by the county clerk.
 - (b) For an application for a partnership license, a copy of the current filed certificate of co-partnership issued by the county clerk.
 - (c) For an application for a limited liability company, a filed copy of the filed articles of organization, certificate of assumed name, if applicable, and current certificate of good standing.
 - (d) For an application for a corporation license a filed copy of the articles of incorporation, certificate of assumed name, if applicable, and current certificate of good standing.
 - (e) Any other documentation requested by the department to determine the applicant's business structure and current authorization to do business in Michigan.
- (3) A foreign company shall submit evidence of current authority to do business in Michigan.
- (4) If an applicant is a Michigan corporation, but is a wholly owned subsidiary of a foreign corporation not admitted to do business in Michigan, then the parent company shall file an affidavit of assumption of liability and a consent to jurisdiction. The director shall be the proper party to receive service of process and shall immediately forward a copy of the process to the corporation's last known address.
- (5) At the request of the department, an applicant shall submit a credit report furnished by a credit reporting service which is acceptable to the department. The applicant may be required to direct the credit reporting service to send the credit report directly to the department, which shall determine the adequacy or sufficiency of the report.
- (6) At the request of the department or board, an applicant shall submit within 60 days of a written request, either of the following:
- (a) A cash or surety bond acceptable to the department.
 - (b) A financial statement showing the current financial condition of the applicant, for a builder's or contractor's license, in accordance with established accounting practices which shall be completed in detail, properly signed, and submitted.
- (7) If an applicant fails to complete all application requirements, including information requested by the department, and any required examination, within 1 year from date of first making application to the department, then the application shall be void and the application processing fee shall be forfeited.
- (8) A contractor who desires to add additional trade or trades to those indicated on the contractor's license shall do all of the

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following:

- (a) Pass an examination for the additional trade or trades.
 - (b) Submit an application form to add the trade or trades to the existing license.
 - (c) Furnish a current credit report upon request by the department.
 - (d) Upon receipt of the new license, the licensee shall return the old identification card and wall license.
 - (9) A passing score on an examination, or on a portion of an examination if the examination is given in separate parts, shall be valid for 1 year from the date the examination or portion of the examination was passed.
- History:1954 ACS 49, Eff. Feb. 14, 1967; 1979 AC; 2006 MR10, Eff. May 19, 2006.

PART 2. LICENSES AND BONDS

R 338.1522

Source: 1997 AACS.

R 338.1523

Source: 1997 AACS.

R 338.1523a

Source: 1998-2000 AACS.

R 338.1524 Licenses; issuance or denial.

Rule 24. (1) The department shall issue a license including an identification card after an applicant has successfully completed all requirements

(2) The physical office location shall be printed on the license.

(3) The department may deny an application for a license for good and sufficient cause. The notice of denial shall advise the applicant of reasons for denial and of his or her right to submit a petition for review of the denial.

History:1954 ACS 49, Eff. Feb. 14, 1967; 1979 AC; 2006 MR10, Eff. May 19, 2006.

R 338.1525 Salesperson's license; identification card; discharge; termination or transfer of salesperson; temporary license for salesperson or salesperson license applicant.

Rule 25. (1) A salesperson shall be licensed under a person holding a license as a builder or contractor, but shall not be licensed under more than 1 builder or contractor during the same period of time.

(2) An application for a salesperson license shall be submitted by the employing builder or contractor. An applicant for a salesperson license who is currently licensed as a residential builder or maintenance and alteration contractor, or has been licensed as a residential builder or maintenance and alteration contractor within the past 3 years, shall not be required to take the salesperson examination.

(3) Upon approval, the department shall issue a license and an identification card containing the name and business address of the salesperson. The card shall be carried by the salesperson and shall be shown as identification to every prospective customer. A salesperson shall not commence work until the builder or contractor under whom the salesperson is licensed receives the salesperson's license and identification card from the department.

(4) When a salesperson licensed under this act is discharged or otherwise terminates employment with the builder or contractor under whom he or she is licensed, the builder or contractor shall return the salesperson's license, and the salesperson shall return the identification card to the department within 5 days from the date of discharge or termination.

(5) When a licensed salesperson transfers employment from the builder or contractor under which he or she is presently licensed to a new employer, the new employer shall submit to the department an application for transfer of the salesperson's license to the new employer.

History:1954 ACS 49, Eff. Feb. 14, 1967; 1954 ACS 100, Eff. Sept. 11, 1979; 1979 AC; 2006 MR 10, Eff. May 19, 2006.

R 338.1526 Termination of licenses.

Rule 26. (1) If a bond is cancelled, a license predicated upon such a bond shall be suspended effective upon the date of cancellation, if the licensee has not replaced the surety or cash bond.

(2) Upon final order of license suspension or revocation, the licensee shall surrender the license to the department within 10 days of the date of suspension or revocation. If the license of a builder or contractor is suspended or revoked, the licenses of salespersons issued under the license of that builder or contractor shall lapse, and licenses shall be surrendered at the same time. Any salesperson may have his or her license transferred to another licensed builder or contractor before the expiration

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date of the salesperson's license.

(3) If the qualifying officer of a corporation, association, partnership, limited liability company or organization consisting of more than 1 person is a party to events that led to suspension or revocation, any license issued to any other organization where the individual is the qualifying officer shall be suspended or revoked and any license issued to the qualifying officer in an individual capacity shall be suspended or revoked.

(4) A qualifying officer of a company shall notify the department in writing within 10 days of ceasing to be the qualifying officer, and shall return the wall license and pocket card of the company.

(5) When a qualifying officer ceases to act as the qualifying officer, and the company intends to continue to operate, the remaining officer, owner, member or partner of the company shall submit a written request to the department to allow the company time to obtain a new qualifying officer.

History:1954 ACS 49, Eff. Feb. 14, 1967; 1979 AC; 2006 MR10, Eff. May 19, 2006.

R 338.1531 Place of business.

Rule 31. (1) A builder or contractor shall maintain a place of business in this state, which is an actual, established physical location from which the builder or contractor conducts business and where applicable books and records are maintained. A post office box, secretarial service, mailbox rental, receiving service, resident agent address, or telephone answering service alone is not sufficient.

(2) A builder or contractor shall display the license and the licenses of all salespersons in a conspicuous position in the builder's or contractor's place of business.

History:1954 ACS 49, Eff. Feb. 14, 1967; 1979 AC; 2006 MR10, Eff. May 19, 2006.

R 338.1532 Advertising.

Rule 32. (1) Advertising shall not misrepresent material facts.

(2) A licensee shall include the name, license number, and actual business address, as shown on the license, in all advertising. The use of a telephone or post office box number alone is prohibited. When sales of new homes are being made by a licensed builder, through a licensed real estate broker, advertisements may indicate the broker's name or both the names of the builder and broker.

(3) A licensee shall not solicit any contract for home improvements by a promise to the purchaser or the prospective purchaser of a bonus, whether of merchandise or cash, which is contingent upon the purchaser's or prospective purchaser's using or displaying a dwelling to a third person or upon the licensee's obtaining an order or orders for merchandise or service from a third person.

(4) A licensee making or attempting to make sales through the use of displays, models or model installations, shall accurately portray the goods and services being offered so as to not mislead or deceive the public.

History:1954 ACS 49, Eff. Feb. 14, 1967; 1979 AC; 2006 MR10, Eff. May 19, 2006.

R 338.1533 Purchase and sales agreements.

Rule 33. (1) All agreements and changes to the agreements between a builder, or contractor, and the customer shall be in writing and signed by the parties. Copies of all agreements and changes to agreements shall be in writing, and provided to the customer.

(2) The builder or contractor shall make certain that the written agreements clearly state the terms of the transaction, including specifications, and when construction is involved, both plans and specifications, including cost, the type and amount of work to be done, and the type and quality of materials to be used.

(3) If a purchase or sales agreement is for a new structure which is either substantially completed or in substantial conformance with a model, plans and specifications need not be furnished if the structure is specifically identified or related to the model and any changes, additions to or subtractions from the model are specifically agreed to and noted in writing.

History:1954 ACS 49, Eff. Feb. 14, 1967; 1979 AC; 2006 MR10, Eff. May 19, 2006.

R 338.1534 Books and records.

Rule 34. A builder or contractor shall keep and maintain a complete, accurate set of books and records which disclose the licensee's current financial condition. The books and records shall be open to inspection by the department or any person duly authorized by it for good and sufficient cause during regular business hours after reasonable notice and for stated reasons.

History:1954 ACS 49, Eff. Feb. 14, 1967; 1979 AC; 2006 MR10, Eff. May 19, 2006.

R 338.1535 Financial statements.

Rule 35. Upon notice by the department, a licensee shall submit within 30 days sworn financial statement showing the

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licensee's current financial status. The notice for a financial statement may be based upon an unsatisfied judgment, a lien filed against the licensee or the department's reasonable belief that the licensee does not have the financial resources to meet contractual obligations. The department's notice shall be in writing and may be served personally on the licensee or by certified mail sent to the licensee's last known business address on file with the department. A request for an extension of time shall be in writing and may be granted for good and sufficient cause.

History: 1954 ACS 49, Eff. Feb. 14, 1967; 1979 AC; 2006 MR10, Eff. May 19, 2006.

R 338.1536 Brokerage.

Rule 36. Acceptance or performance of a contract procured by a salesperson not licensed under a builder or contractor, or acceptance or performance of a contract, other than the sale of real property, procured by anyone not licensed under the act, is prohibited.

History: 1954 ACS 49, Eff. Feb. 14, 1967; 1979 AC; 2006 MR10, Eff. May 19, 2006.

PART 5. COMPLAINTS AND HEARINGS

R 338.1551 Complaints; filing.

Rule 51. (1) A complaint shall be submitted in a form specified by the department.

(2) Upon receipt of a valid and written complaint, the department shall assign a complaint number, acknowledge the complaint and forward a copy of the complaint to the licensee. The licensee shall reply to the department within 15 days from receipt of the complaint and shall confirm or deny the justification of the complaint. A complaint acknowledged as justified shall be corrected within a reasonable time. If a complaint or a portion of the complaint is not acknowledged by the licensee as being justified, then the department shall notify the complainant of the area of disagreement.

(3) If the complaint or the information submitted by the complaining party is incomplete or disputed by the licensee, the department may require the complaining party to furnish additional information. The report shall indicate what steps, if any, have been taken by the complaining party before any other governmental agency or any other pertinent information regarding the subject matter of the complaint. Before the department takes any further action it shall obtain a report from local building officials or proper local authorities, and if the department cannot obtain a report from the local building official or proper local authorities, then a person authorized by the department shall make an inspection to determine if the complaint is justified.

(4) If a complaint is justified by the local building inspector or by a person authorized by the department to make inspections, the builder or contractor shall correct the complaint within a reasonable time. Failure or refusal by the licensee to correct a structural matter that is materially deficient, dangerous, or hazardous to the owners shall be presumed to be dishonest or unfair dealing.

(5) Standards of construction shall be in accordance with the local building code, or in the absence of a code in accordance with the building code of the nearest political subdivision having a building code.

History: 1954 ACS 49, Eff. Feb. 14, 1967; 1979 AC; 2006 MR10, Eff. May 19, 2006.

R 338.1554

Source: 1997 AACS.

R 338.1555

Source: 2002 AACS.

DIRECTOR'S OFFICE

HEALTH CODE BOARDS DISCIPLINARY PROCEEDINGS—FILINGS ON OR AFTER APRIL 1, 1994

R 338.1601

Source: 1996 AACS.

R 338.1602

Source: 1996 AACS.

R 338.1603

Source: 1996 AACS.

R 338.1604

Source: 1996 AACS.

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R 338.1605
Source: 1996 AACS.

R 338.1606
Source: 1996 AACS.

R 338.1607
Source: 1996 AACS.

R 338.1608
Source: 1996 AACS.

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R 338.1610
Source: 1996 AACS.

R 338.1611
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R 338.1612
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R 338.1614
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R 338.1615
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R 338.1626
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R 338.1627
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R 338.1628
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R 338.1629
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R 338.1630
Source: 1996 AACS.

R 338.1631
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R 338.1632
Source: 1996 AACS.

R 338.1633
Source: 1996 AACS.

R 338.1634
Source: 1996 AACS.

R 338.1635
Source: 1996 AACS.

R 338.1636
Source: 1996 AACS.

R 338.1637
Source: 1996 AACS.

COUNSELING

PART 1. GENERAL PROVISIONS

R 338.1751
Source: 2003 AACS.

R 338.1752
Source: 2003 AACS.

R 338.1752a
Source: 1993 AACS.

R 338.1753
Source: 2003 AACS.

R 338.1754
Source: 1995 AACS.

R 338.1756
Source: 2003 AACS.

MARRIAGE COUNSELORS

R 390.1801
Source: 2003 AACS.

PART 1. ORGANIZATION OF BOARD

R 338.1811
Source: 1997 AACS.

R 338.1812
Source: 1997 AACS.

R 338.1813
Source: 1997 AACS.

R 338.1814
Source: 1997 AACS.

R 338.1815
Source: 1997 AACS.

PART 2. CERTIFICATION

R 338.1821
Source: 1997 AACS.

R 338.1822
Source: 1997 AACS.

R 338.1823
Source: 1997 AACS.

R 338.1824
Source: 1997 AACS.

R 338.1825
Source: 1997 AACS.

PART 3. HEARINGS

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R 338.1832
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R 338.1833
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R 338.1834
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R 338.1835
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Source: 1997 AACS.

R 338.1837

Source: 1997 AACS.

R 338.1841

Source: 1998-2000 AACS.

R 338.1842

Source: 1998-2000 AACS.

R 338.1843

Source: 1998-2000 AACS.

R 338.1844

Source: 1998-2000 AACS.

R 338.1861

Source: 1998-2000 AACS.

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

DIRECTORS OFFICE

HEARING AID DEALERS

PART 1. LICENSING

R 338.1901

Source: 1998-2000 AACS.

R 338.1905

Source: 1998-2000 AACS.

R 338.1906

Source: 1998-2000 AACS.

R 338.1907

Source: 1998-2000 AACS.

R 338.1908

Source: 1998-2000 AACS.

R 338.1909

Source: 1998-2000 AACS.

R 338.1910

Source: 1998-2000 AACS.

R 338.1911

Source: 1998-2000 AACS.

R 338.1912

Source: 1998-2000 AACS.

R 338.1913

Source: 1998-2000 AACS.

R 338.1914

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Source: 1998-2000 AACS.

PART 2. CONDUCT OF BUSINESS

R 338.1921

Source: 1998-2000 AACS.

R 338.1922

Source: 1998-2000 AACS.

HEARING AID DEALERS

PART 3. COMPLAINTS AND HEARINGS

R 338.1941

Source: 1997 AACS.

R 338.1942

Source: 1997 AACS.

R 338.1943

Source: 1997 AACS.

BARBER EXAMINERS

R 338.2001

Source: 1997 AACS.

R 338.2002

Source: 1997 AACS.

R 338.2003

Source: 1997 AACS.

R 338.2004

Source: 1997 AACS.

R 338.2005

Source: 1997 AACS.

R 338.2006

Source: 1997 AACS.

R 338.2007

Source: 1997 AACS.

R 338.2008

Source: 1997 AACS.

R 338.2009

Source: 1997 AACS.

R 338.2010

Source: 1997 AACS.

R 338.2011

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Source: 1997 AACs.

R 338.2012

Source: 1997 AACs.

R 338.2013

Source: 1997 AACs.

R 338.2014

Source: 1997 AACs.

R 338.2015

Source: 1997 AACs.

R 338.2016

Source: 1997 AACs.

R 338.2017

Source: 1997 AACs.

R 338.2018

Source: 1997 AACs.

R 338.2019

Source: 1997 AACs.

R 338.2020

Source: 1997 AACs.

R 338.2021

Source: 1997 AACs.

R 338.2022

Source: 1997 AACs.

R 338.2023

Source: 1997 AACs.

R 338.2024

Source: 1997 AACs.

R 338.2025

Source: 1997 AACs.

R 338.2026

Source: 1997 AACs.

R 338.2027

Source: 1997 AACs.

R 338.2028

Source: 1997 AACs.

R 338.2029

Source: 1997 AACs.

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R 338.2030
Source: 1997 AACCS.

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R 338.2046
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R 338.2048
Source: 1997 AACCS.

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R 338.2049

Source: 1997 AAC.S.

R 338.2050

Source: 1997 AAC.S.

R 338.2051

Source: 1997 AAC.S.

R 338.2052

Source: 1997 AAC.S.

R 338.2053

Source: 1997 AAC.S.

R 338.2054

Source: 1997 AAC.S.

COSMETOLOGY

PART 1. GENERAL PROVISIONS

R 338.2101 Definitions.

Rule 1.As used in these rules:

(a) "Act" means 1980 PA 299 MCL 339.101.

(b) "Apprenticeship practitioner" means a licensee who is approved by the department and who is engaged in training an apprentice within an establishment.

(c) "Branch facility" is a secondary classroom location to an existing school.

(d)"Dry sanitizer" means a closed cabinet or container that holds a fumigant chemical sanitizing agent.

(e)"Establishment" means a facility, other than a school, where cosmetology or electrology services are rendered to the public.

(f)"Junior student or apprentice" means a person who has not qualified to work on the general public.

(g) "Minimum practical application" means a service performed on a mannequin, student, or patron.

(h)"Reactive chemicals" means, but is not limited to, any of the following:

(i) Permanent wave solutions.

(ii) Relaxers.

(iii) Temporary, semipermanent, or permanent hair colorings.

(iv) Hair lighteners.

(v) Acids.

(vi) Bases.

(vii) Creams.

(viii) Fluids.

(ix) Any other preparation designed to modify or rearrange the structure of the hair, skin, or nails.

(i)"School" means a school of cosmetology as defined in section 1201(p) of the act, and may include a branch facility as approved by the department.

(j) "Senior student or apprentice" means a person who has qualified to work on the general public.

(k) "Specialist demonstrator" means a person imparting specialized knowledge to students under the supervision of a licensed instructor within a school of cosmetology or electrology.

(l) "Wet sanitizer" means a container that holds a liquid chemical sanitizing agent.

History:1954ACS64, Eff. Nov. 6, 1970; 1979AC; 1979 ACS8, Eff. Oct. 9, 1981; 1999 MR 10, Eff. Nov. 17, 1999; 2004 MR 13, Eff. July 15, 2004; 2006 MR 10, Eff. May 26, 2006.

R 338.2102

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Source: 1998-2000 AACCS.

R 338.2103

Source: 1998-2000 AACCS.

R 338.2106

Source: 1998-2000 AACCS.

R 338.2107

Source: 1998-2000 AACCS.

PART 2. LICENSES AND PERMITS

R 338.2121

Source: 1998-2000 AACCS.

R 338.2122

Source: 1998-2000 AACCS.

R 338.2123

Source: 1998-2000 AACCS.

R 338.2124

Source: 1998-2000 AACCS.

R 338.2125

Source: 1998-2000 AACCS.

R 338.2126

Source: 1998-2000 AACCS.

R 338.2127 Change of ownership or relocation; closure.

Rule 27. (1) If an establishment or school changes ownership or location, including any branch facility to the current location, the parties involved shall inform the department of the change, in writing, within 30 calendar days. A new application showing the new ownership or the new location, together with the applicable fees and a copy of the existing license shall be filed with the department

(2) Before a school is closed or changes ownership, the department shall be notified, in writing, and shall be furnished with a copy of the school's enrolled student records of examinations, credit hours, and minimum practical applications.

(3) Branch facilities where training by a cosmetology school is conducted in a physical location apart from the main school premises, may be approved by the department if the branch facility meets the following criteria:

(a) Is not used for training students until the department has approved the use of the facility, based upon school need.

(b) Meets all requirements for Michigan cosmetology schools, except that it shall not include a full-service facility and shall not offer clinic services to the public.

(c) Provides for proper supervision of students.

(d) Is submitted for approval on an application prescribed by the department, to include, at a minimum, both of the following:

(i) The complete address of the premises to be licensed.

(ii) A current, detailed floor plan, not larger than 8 1/2 by 11 inches, of the proposed premises, showing arrangement of the classroom, placing of equipment, entrances, exits, and a statement of the purpose for which the premises will be used.

History: 1954 ACS 64, Eff. Nov. 6, 1970; 1979 AC; 1999 MR 10, Eff. Nov. 17, 1999; 2006 MR 10, Eff. May 26, 2006.

PART 3. FACILITIES AND EQUIPMENT

R 338.2131

Source: 1998-2000 AACCS.

R 338.2132

Source: 1998-2000 AACCS.

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R 338.2132a

Source: 1998-2000 AACs.

R 338.2133

Source: 1998-2000 AACs.

R 338.2134 Enrollment.

Rule 34. (1) A school shall report the enrollment of a student and submit the registration fee to the department within 60 days after the student begins a course of instruction.

(2) A student requesting hours from a previous enrollment shall pass practical and theory examinations on the subject areas previously studied and submit the previous hours to the new school before attending the new school. The school shall notify the department of the number of hours accepted and the number of minimum practical applications verified for any student who has hours from previous training.

(3) A student shall not be granted credit for more hours than are verified by the school of previous enrollment.

History: 1954 ACS 64, Eff. Nov. 6, 1970; 1979 AC; 1979 ACS 8, Eff. Oct. 9, 1981; 1999 MR 10, Eff. Nov. 17, 1999; 2006 MR 10, Eff. May 26, 2006.

R 338.2135

Source: 1998-2000 AACs.

R 338.2136

Source: 1998-2000 AACs.

R 338.2137

Source: 1998-2000 AACs.

R 338.2138

Source: 1998-2000 AACs.

R 338.2139

Source: 2004 AACs.

R 338.2139a Course designation and credit provisions.

Rule 39a. (1) A school may give elective or advanced courses to a person in a subject in which the person is licensed to practice. Elective or advanced courses shall not be given in conjunction with the training of students enrolled in a curriculum prescribed in these rules.

(2) A student or apprentice may be credited for a maximum of 35 hours spent in training in the cosmetology curriculum outside the school or establishment premises, provided a licensed instructor for a cosmetology school or the approved practitioner for an approved apprentice is present with the student or apprentice. Electrology, skin care, manicuring, and natural hair culturist students or apprentices may be credited with a maximum of 15 hours spent in training in their specialty outside the school or establishment premises.

(3) Lost time in any program may be made up in accordance with section 1205(5)(a) of the act.

(4) A school or apprenticeship practitioner shall report the termination of any student or apprentice to the department in writing.

History: 1999 MR 10, Eff. Nov. 17, 1999; 2006 MR 10, Eff. May 26, 2006.

PART 4. ADVERTISING; REGISTRATION; EXAMINATION; RECORDS; TRANSFERS

R 338.2141

Source: 2004 AACs.

R 338.2142

Source: 1998-2000 AACs.

R 338.2143

Source: 1998-2000 AACs.

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R 338.2144

Source: 1998-2000 AACS.

R 338.2145 Public notice.

Rule 45. (1) A school shall display a sign designating it as a licensed school at all physical premises for which the school is licensed.

(2) A school shall not operate as an establishment, but it may, for teaching purposes, practice on the public if it advertises that the work is done solely by students. An instructor shall not perform services on the public for compensation in a school.

(3) A school shall display a license, provided by the department, at the school and in any branch facility, which shows the physical address of the main school and the branch.

History:1954ACS64, Eff. Nov. 6, 1970; 1979AC; 1979 ACS8, Eff. Oct. 9, 1981; 1999 MR 10, Eff. Nov. 17, 1999; 2006 MR 10, Eff. May 26, 2006.

R 338.2146

Source: 1998-2000 AACS.

R 338.2147

Source: 1997 AACS.

R 338.2148

Source: 1998-2000 AACS.

R 338.2149

Source: 1998-2000 AACS.

PART 5. CURRICULUM

R 338.2151

Source: 2004 AACS.

R 338.2151a

Source: 1998-2000 AACS.

R 338.2152

Source: 1998-2000 AACS.

R 338.2153

Source: 1998-2000 AACS.

R 338.2155

Source: 1997 AACS.

R 338.2156

Source: 1998-2000 AACS.

PART 6. HEALTH AND SAFETY

R 338.2161

Source: 1998-2000 AACS.

R 338.2161a

Source: 2004 AACS.

R 338.2161b

Source: 2004 AACS.

R 338.2162

Source: 1998-2000 AACS.

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R 338.2162a

Source: 2004 AACS.

R 338.2163

Source: 1998-2000 AACS.

R 338.2163a

Source: 2004 AACS.

R 338.2163b

Source: 1998-2000 AACS.

R 338.2163c

Source: 2004 AACS.

R 338.2166

Source: 1998-2000 AACS.

R 338.2167

Source: 1998-2000 AACS.

R 338.2168

Source: 1998-2000 AACS.

R 338.2169

Source: 1998-2000 AACS.

PART 7. INSTRUCTORS AND DEMONSTRATORS

R 338.2171

Source: 1998-2000 AACS.

R 338.2172

Source: 1998-2000 AACS.

R 338.2173

Source: 1998-2000 AACS.

R 338.2174

Source: 1998-2000 AACS.

R 338.2175

Source: 1998-2000 AACS.

R 338.2176

Source: 1998-2000 AACS.

R 338.2178

Source: 1998-2000 AACS.

R 338.2179

Source: 1998-2000 AACS.

R 338.2179a

Source: 1998-2000 AACS.

R 338.2179b

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Source: 1998-2000 AACS.

R 338.2179c

Source: 1998-2000 AACS.

R 338.2179d

Source: 1998-2000 AACS.

R 338.2179e

Source: 2004 AACS.

R 338.2179f

Source: 1998-2000 AACS.

R 338.2179g

Source: 2004 AACS.

R 338.2179h

Source: 1998-2000 AACS.

PART 8. STUDENTS

R 338.2181

Source: 1998-2000 AACS.

R 338.2182

Source: 1998-2000 AACS.

R 338.2183

Source: 1998-2000 AACS.

R 338.2184

Source: 1998-2000 AACS.

R 338.2185

Source: 1998-2000 AACS.

R 338.2186

Source: 1998-2000 AACS.

PART 9. HEARINGS

R 338.2191

Source: 1997 AACS.

R 338.2192

Source: 1997 AACS.

R 338.2193

Source: 1997 AACS.

R 338.2194

Source: 1997 AACS.

R 338.2195

Source: 1997 AACS.

RESPIRATORY

R 338.2201 Definitions.

Rule 2201. As used in these rules:

- (a) "Board" means the board of respiratory care.
- (b) "Code" means 1978 PA 368, MCL 333.1101.
- (c) "Department" means the department of community health.
- (d) "Endorsement" means the acknowledgement that the licensing criteria in 1 jurisdiction is substantially equivalent to the criteria established and described in section 16186 of the code.

History: 2006 MR 3, Eff. Feb. 2, 2006.

R 338.2202 Application for respiratory therapist license; requirements.

Rule 2202. An applicant for a respiratory therapist license, in addition to meeting the code and the administrative rules promulgated under the code, shall comply with all of the following provisions:

- (a) Submit a completed application on a form provided by the department, together with the requisite fee.
- (b) Have graduated from a respiratory therapist educational program that is acceptable to the board under R 338.2206.
- (c) Have earned at least a 2-year associate's degree from an accredited college or university approved by the department.
- (d) Possess the entry-level credential for respiratory therapists that was conferred by the national board of respiratory care (nbc) or by its predecessor organization.

History: 2006 MR 3, Eff. Feb. 2, 2006.

R 338.2203 Application for temporary respiratory therapist license; requirements.

Rule 2203. An applicant for a temporary respiratory therapist license, in addition to meeting the code and the administrative rules promulgated under the code, shall comply with all of the following provisions:

- (a) Before December 1, 2006, submit a completed application on a form provided by the department together with the requisite fee in section 18711(1)(a).
- (b) Provide proof of full-time employment as a respiratory therapist for the 4 years immediately preceding the date of application in accordance with section 18711(1)(b). "Full-time employment" as used in this subdivision shall be defined as continuous employment for 4 years with a minimum of 5,000 hours of experience accumulated in the 4 years immediately preceding the date of application.
- (c) Submit a letter of recommendation from the applicant's medical director, as defined in section 18701(1)(b), that attests to the applicant's clinical competence as a respiratory therapist.

History: 2006 MR 3, Eff. Feb. 2, 2006.

R 338.2204 Application for license for credentialed respiratory therapists; requirements.

Rule 2204. An applicant for a respiratory therapist license, in addition to meeting the code and the administrative rules promulgated under the code, shall comply with both of the following provisions:

- (a) Before December 1, 2006, submit a completed application on a form provided by the department together with the requisite fee according to provisions of section 18709(2).
- (b) Submit documentation of a respiratory therapist certification or registration credential from the nbc.

History: 2006 MR 3, Eff. Feb. 2, 2006.

R 338.2205 Licensure by endorsement; respiratory therapist.

Rule 2205. (1) An applicant for a respiratory therapist license by endorsement shall submit a completed application on a form provided by the department, together with the requisite fee. In addition to meeting the code and the administrative rules promulgated under the code, an applicant shall satisfy the requirements of this rule.

(2) If an applicant was registered or licensed as a respiratory therapist in another state and has held a valid registration or license as a respiratory therapist in that state immediately preceding the date of filing an application for a Michigan license but is not currently certified by the nbc, then it will be presumed that the applicant meets the requirements of section 18709(1)(a), (b) and (c) of the code.

(3) If an applicant does not meet subrule (2) of this rule, then the applicant shall meet both of the following, in addition to meeting the requirements of the code:

- (a) Possess a valid registration or license as a respiratory therapist that was issued by another state after the applicant graduated from an accredited respiratory therapist education program that is acceptable to the board under R 338.2206.
- (b) Is currently registered or certified by the nbc or passed the nbc certification examination for respiratory therapists within 2 years of submission of the application for licensure by endorsement.

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(4) If the applicant is a Canadian registered respiratory therapist who is currently certified as a respiratory therapist by the United States nbrc, then it will be presumed that the applicant meets section 18709(1)(a), (b) and (c) of the code.

(5) If a Canadian registered applicant or other foreign trained and registered applicant does not meet subrule (4) of this rule, then the applicant shall comply with all of the following provisions:

(a) Have his or her education evaluated to determine if it is equivalent to the standards in R 338.2206.

(b) Pass the United States nbrc certification examination.

(c) Verify that the registration or license from the other jurisdiction, whether current or expired, is in good standing.

History: 2006 MR 3, Eff. Feb. 2, 2006.

R 338.2206 Educational program standards; adoption by reference.

Rule 2206.(1) The board approves the standards for accrediting respiratory therapist educational programs adopted by the Committee on Accreditation for Respiratory Care (CoARC) from the Commission on Accreditation of Allied Health Education Programs in the document entitled "Standards and Guidelines of the Profession of Respiratory Care" effective July 15, 2003. Copies of these standards may be obtained at CoARC 1248 Harwood Rd. Bedford, Texas 76021-4244, at cost, or at the coarc website, www.coarc.com, at no cost or from the Michigan Board of Respiratory Care, Bureau of Health Professions, Department of Community Health, P.O. Box 30670, Lansing, MI 48909. A respiratory therapist educational program that is accredited by the committee on accreditation for respiratory care is a respiratory therapist educational program that is acceptable to the board.

(2) The board adopts by reference the recognition standards and criteria of the council for higher education accreditation (chea), effective January 1999, and the procedures and criteria for recognizing postsecondary accrediting agencies of the U.S. department of education, effective July 1, 2000. Copies of the standards and criteria of the council for higher education accreditation and the U.S. department of education are available for inspection and distribution at cost from the Michigan Board of Respiratory Care, Bureau of Health Professions, Department of Community Health, 611 West Ottawa, P.O. Box 30670, Lansing, MI 48909. The chea recognition standards also may be obtained from the Council for Higher Education Accreditation, One Dupont Circle NW, Suite 510, Washington, DC 20036-1110, or from the council's website at <http://www.chea.org> at no cost. The federal recognition criteria may be obtained from the U.S. Department of Education Office of Postsecondary Education, 1990 K Street, NW, Washington, DC 20006 or from the department's website at <http://www.ed.gov/about/offices/list/OPE/index.html> at no cost.

(3) The board adopts by reference the standards of the following postsecondary accrediting organizations, which may be obtained from the individual accrediting organization at the identified cost. Copies of these standards also are available for inspection and distribution at cost from the Michigan Board of Respiratory Care, Bureau of Health Professions, Department of Community Health, 611 West Ottawa, P.O. Box 30670, Lansing, MI 48909:

(a) The standards of the Middle States Commission on Higher Education, 3624 Market Street, Philadelphia, PA 19104, in the document entitled "Characteristics of Excellence in Higher Education: Eligibility Requirements and Standards for Accreditation," 2002 edition, which is available free of charge on the association's website at <http://www.msache.org> or for purchase at a cost of \$7.40 as of the time of adoption of these rules.

(b) The standards of the New England Association of Schools and Colleges, Inc., Commission on Institutions of Higher Education, 209 Burlington Road, Bedford, MA 07130, in the document entitled "Standards for Accreditation," 2001 edition, which is available free of charge on the association's website at <http://www.neasc.org>.

(c) The standards of the North Central Association of Colleges and Schools, The Higher Learning Commission, 30 North LaSalle Street, Suite 2400, Chicago, IL 60602, in the document entitled "Handbook of Accreditation," 2003 edition, which is available for purchase through the association's website at <http://www.ncahigherlearningcommission.org> at a cost of \$30.00 as of the time of adoption of these rules.

(d) The standards of the Northwest Association of Schools, Colleges, and Universities, the Commission on Colleges and Universities, 8060 165th Avenue NE, Suite 100, Redmond, WA 98052, in the document entitled "Accreditation Handbook," 2003 edition, which is available for purchase through the association's website at <http://www.nwccu.org> at a cost of \$20.00 as of the time of adoption of these rules.

(e) The standards of the Southern Association of Colleges and Schools, Commission on Colleges, 1866 Southern Lane, Decatur, GA 30033, in the document entitled "Principles of Accreditation: Foundation for Quality Enhancement," January 2004, which is available free of charge on the association's website at <http://www.sacscoc.org> or for purchase at a cost of \$12.00 for members and \$24.00 for nonmembers as of the time of adoption of these rules.

(f) The standards of the Western Association of Schools and Colleges, the Accrediting Commission for Senior Colleges and Universities, 985 Atlantic Avenue, Suite 100, Alameda, CA 94501, in the document entitled "2001 Handbook of Accreditation," which is available free of charge on the commission's website at <http://www.wascweb.org> or for purchase at a cost of \$15.00 for member institutions and \$20.00 for nonmember institutions as of the time of adoption of these rules.

(g) The standards of the Western Association of Schools and Colleges, Accrediting Commission for Community and Junior

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Colleges, 10 Commercial Blvd., Suite 204, Novato, CA 94949, in the document entitled "Accreditation Reference Book," July 2003, which is available free of charge on the commission's website at <http://www.wascweb.org>.
History: 2006 MR 3, Eff. Feb. 2, 2006.

R 338.2207 Relicensure.

Rule 2207.(1) An applicant whose license has been lapsed for more than 3 years may be relicensed under section 16201(4) of the code upon meeting either of the following requirements:

- (a) Provide to the department documentation that the applicant holds an unrestricted license in another state.
 - (b) Provide to the department documentation that the applicant-passed the certification examination of the nbrc within the 2 years immediately preceding the application for relicensure.
- (2) If the applicant is not able to meet either of the requirements in subdivisions (a) and (b) of this subrule, the applicant shall become credentialed by the nbrc.

History: 2006 MR 3, Eff. Feb. 2, 2006.

CHIROPRACTIC

R 338.2208

Source: 1997 AACS.

R 338.2209

Source: 1997 AACS.

R 338.2210

Source: 1997 AACS.

R 338.2211

Source: 1997 AACS.

R 338.2212

Source: 1997 AACS.

R 338.2213

Source: 1997 AACS.

R 338.2214

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R 338.2215

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R 338.2216

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R 338.2220

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R 338.2221

Source: 1997 AACS.

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R 338.2222
Source: 1997 AACs.

R 338.2223
Source: 1997 AACs.

R 338.2224
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R 338.2238
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R 338.2239
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R 338.2240
Source: 1997 AACs.

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R 338.2241
Source: 1997 AACS.

R 338.2242
Source: 1997 AACS.

R 338.2243
Source: 1997 AACS.

R 338.2244
Source: 1997 AACS.

R 338.2245
Source: 1997 AACS.

MEDICINE

PART 1. GENERAL PROVISIONS

R 338.2301
Source: 1987 AACS.

R 338.2303
Source: 1985 AACS.

R 338.2304
Source: 1998-2000 AACS.

R 338.2305
Source: 1998-2000 AACS.

R 338.2308
Source: 1990 AACS.

PART 2. LICENSES

R 338.2311
Source: 1997 AACS.

R 338.2312
Source: 1997 AACS.

R 338.2313
Source: 1987 AACS.

R 338.2314
Source: 1994 AACS.

R 338.2315
Source: 1997 AACS.

R 338.2316
Source: 1994 AACS.

R 338.2317
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R 338.2318
Source: 1994 AACS.

R 338.2319
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R 338.2320
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R 338.2322
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R 338.2323
Source: 1997 AACS.

R 338.2325
Source: 1997 AACS.

R 338.2326
Source: 1987 AACS.

R 338.2327
Source: 1997 AACS.

R 338.2327a
Source: 1991 AACS.

R 338.2328
Source: 1997 AACS.

R 338.2329
Source: 1997 AACS.

R 338.2329a
Source: 1989 AACS.

PART 3. ADMINISTRATIVE HEARINGS

R 338.2330
Source: 1997 AACS.

R 338.2331
Source: 1997 AACS.

R 338.2332
Source: 1997 AACS.

R 338.2333
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R 338.2334
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R 338.2337
Source: 1997 AACs.

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PART 5. CONTINUING MEDICAL EDUCATION

R 338.2371
Source: 1991 AACS.

R 338.2374
Source: 1991 AACS.

R 338.2376
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R 338.2380
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R 338.2381
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R 338.2382
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LAND SURVEYORS

R 338.2401
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R 338.2402
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Source: 1997 AACs.

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PSYCHOLOGY

R 338.2501

Source: 2005 AACs.

R 338.2504

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R 338.2508
Source: 2003 AACCS.

R 338.2509
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R 338.2512
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R 338.2514
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REAL ESTATE SCHOOLS

R 338.2601
Source: 1997 AACCS.

R 338.2602
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Source: 1997 AACS.

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R 338.2767
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R 338.2785
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R 338.2786
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R 338.2801
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R 338.2802
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R 338.2803
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R 338.2805
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R 338.2815
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R 338.2816
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R 338.2817
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R 338.2818
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R 338.2819
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R 338.2843
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R 338.2845
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R 338.2847
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R 338.2848
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R 338.2849
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R 338.2901
Source: 2005 AACS.

R 338.2902
Source: 1997 AACS.

R 338.2903
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R 338.2904
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R 338.2905
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R 338.2906
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R 338.2906a
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R 338.2907
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R 338.2907a
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R 338.2907b
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R 338.2908c
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R 338.2908o

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R 338.3042

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SOCIAL WORKERS—CONTINUING EDUCATION

R 338.3044

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R 338.3104

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R 338.3108

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R 338.3111

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R 338.3114
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R 338.3208
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R 338.3239
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R 338.3461
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R 338.3601
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ADMINISTRATIVE HEARINGS—VETERINARY MEDICINE

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- R 338.3825**
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SANITARIANS—REGISTRATION

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R 338.4419
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R 338.4501

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R 338.4601
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R 338.4698
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VETERINARY MEDICINE

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R 338.4901
Source: 1981 AACs.

R 338.4902
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R 338.4903
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R 338.4904
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R 338.4905
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R 338.4906
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R 338.4910
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Source: 1997 AACS.

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Source: 1990 AACS.

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R 338.4916

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R 338.4920

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R 338.4971

Source: 1981 AACS.

R 338.4972

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R 338.4981
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R 338.4982
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R 338.4983
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R 338.4984
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R 338.5101
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R 338.5103
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R 338.5105
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R 338.5110
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R 338.5110a
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R 338.5111
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R 338.5112
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R 338.5114
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R 338.5115
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R 338.5120
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R 338.5130
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R 338.5135
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R 338.5140
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R 338.5145
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R 338.5147
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R 338.5150
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R 338.5155
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R 338.5160
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PART 2. CONTINUING EDUCATION

R 338.5201
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R 338.5205
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R 338.5210
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R 338.5211
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R 338.5215
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R 338.5216
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R 338.5217
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R 338.5221
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R 338.5230.
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R 338.5235
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R 338.5250
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R 338.5255
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R 338.5260
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R 338.5265
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R 338.5270
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R 338.5280
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R 338.5285
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PART 3. HEARINGS AND COMPLIANCE CONFERENCES

R 338.5301
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R 338.5303
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R 338.5405
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R 338.5425
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R 338.5435
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R 338.5446
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R 338.5450
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R 338.5460
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R 338.5465
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R 338.5470
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R 338.5475
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R 338.5480
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R 339.6001
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R 339.6039
Source: 2003 AACs.

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R 339.6045
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R 338.6102
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PART 2. PHYSICIAN'S ASSISTANT PROGRAM APPROVAL

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R 338.7109
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DIRECTOR'S OFFICE

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R 338.7201
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R 338.7203
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R 338.8101
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NURSING

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R 338.10103
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R 338.10199
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R 338.10602

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R 338.10603

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OFFICE OF HEALTH SERVICES

BOARD OF NURSING

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R 338.10702

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R 338.10703

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R 338.10704

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R 338.10705

Source: 1998-2000 AACCS.

DENTISTRY

PART 1. GENERAL PROVISIONS

R 338.11101 Definitions.

Rule 1101.As used in these rules:

- (a)“Act” means 1978 PA 368, MCL 333.1101.
- (b)“Analgesia” means the diminution or elimination of pain in the conscious patient.
- (c)“Approved course” means a course offered by either a dental, dental hygiene, or dental assisting program accredited by the commission on dental accreditation of the American dental association and approved by the department, or as defined in section 16611 of the act.
- (d) “Assignment” means that a dentist has designated a patient of record upon whom services are to be performed by an assistant, registered dental assistant, or registered dental hygienist and has described the procedure to be performed. The dentist need not be physically present in the office or in the treatment room at the time the procedures are being performed.
- (e) “Assistant” means a nonlicensed person who may perform basic supportive procedures under the supervision of a dentist as provided in these rules.
- (f) “Board” means the Michigan board of dentistry.
- (g) “Conscious sedation” means a minimally depressed level of consciousness that retains a patient’s ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command and that is produced by a pharmacological or a non-pharmacological method or a combination of both.
- (h) “Combination inhalation-enteral conscious sedation” means conscious sedation using inhalation and enteral agents.Nitrous oxide/oxygen when used in combination with sedative agents may produce conscious or deep sedation or general anesthesia.
- (i) “Dental school” means an institution that offers a curriculum that provides a core of required dental education, training, and experience, and includes at least 4 years of academic instruction or its equivalent leading to the degree of doctor of dental surgery or doctor of dental medicine.The dental school is a component of an institution of higher education that is accredited by an agency recognized by the United States department of education and that the American dental association’s commission on dental accreditation has accredited as a dental education program.
- (j) “Dentist” means a person licensed by the board under the act and these rules.
- (k) “Direct supervision” means that a dentist has designated a patient of record upon whom services are to be performed by an assistant, registered dental assistant, or registered dental hygienist and has described the procedures to be performed. The dentist shall examine the patient before prescribing the procedure to be performed and again upon completion of the procedure. The dentist shall be physically present in the office at the time the procedures are being performed.
- (l) “Enteral” means any technique of administration in which the agent is absorbed through the gastrointestinal or oral mucosa.
- (m) “General anesthesia” means the elimination of all sensations accompanied by a state of unconsciousness and loss of reflexes necessary to maintain a patient airway.
- (n) “General supervision” means that a dentist has designated a patient of record upon whom services are to be performed. The dentist shall be physically present in the office at the time the procedures are being performed.
- (o) “Licensed” means the possession of a full license to practice, unless otherwise stated.
- (p) “Local anesthesia” means the elimination of sensation, especially pain, in one part of the body by the topical application or regional injection of a drug.

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- (q) "Office" means the building or suite in which dental treatment is performed.
- (r) "Parenteral" means a technique of administration in which the drug bypasses the gastrointestinal (gi) tract, such as intramuscular (im), intravenous (iv), intranasal (in), submucosal (sm), subcutaneous (sc), and intraocular (io).
- (s) "Patient of record" means a patient who has been examined and diagnosed by a licensed dentist and whose treatment has been planned by a licensed dentist.
- (t) "Public health service" means the United States public health service. A person applying for an exemption under this classification shall submit a certified copy of his or her official papers verifying active duty status.
- (u) "Registered dental assistant" means a person licensed as such by the board under the act and these rules. A dental hygienist may perform the functions of a registered dental assistant if he or she is licensed by the board as a registered dental assistant.
- (v) "Registered dental hygienist" means a person licensed as such by the board under the act and these rules.
- (w) "Second pair of hands," as used in R 338.11109, means acts, tasks, functions, and procedures performed by a dental assistant, registered dental assistant, or registered dental hygienist at the direction of a dentist who is in the process of rendering dental services and treatment to a patient. The acts, tasks, functions, and procedures performed by a dental assistant, registered dental assistant, or registered dental hygienist are ancillary to the procedures performed by the dentist and intended to provide help and assistance at the time the procedures are performed. This definition shall not be deemed to expand the duties of the dental assistant, registered dental assistant, or registered dental hygienist as provided by the act and rules promulgated by the board.
- (x) "Sedation" means the calming of a nervous, apprehensive individual, without inducing loss of consciousness, through the use of systemic drugs. Agents may be given orally, parenterally, or by inhalation.
- (y) "Titration" means the administration of small incremental doses of a drug until a desired clinical effect is observed. In accordance with this definition, titration of oral medication for the purposes of sedation is unpredictable. Repeated dosing of orally administered sedative agents may result in an alteration of the state of consciousness beyond the intent of the practitioner. The maximum recommended dose (mrd) of an oral medication shall not be exceeded. Facilities, personnel and standards for enteral sedation are the same as those for parenteral sedation.
- (z) "Treatment room" means the particular room or specific area in which the dental treatment is performed upon a patient.
- History: 1984 MR 7, Eff. July 19, 1984; 1989 MR 5, Eff. May 23, 1989; 2006 MR 11, Eff. June 9, 2006.

R 338.11103

Source: 1984 AACS.

R 338.11105

Source: 1997 AACS.

R 338.11107

Source: 1984 AACS.

R 338.11109

Source: 1984 AACS.

R 338.11115

Source: 1989 AACS.

R 338.11117

Source: 1984 AACS.

R 338.11120

Source: 1989 AACS.

R 338.11121

Source: 1989 AACS.

R 338.11199

Source: 1984 AACS.

PART 2. LICENSURE

R 338.11201 Licensure by examination to practice dentistry; graduates of schools in compliance with board standards.

Rule 1201. An applicant for dentist licensure by examination shall submit a completed application on a form provided by the department, together with the requisite fee. In addition to meeting the requirements of the code and administrative rules promulgated under the code, an applicant for dentist licensure by examination shall meet all of the following requirements:

- (a) Graduate from a dental school that is in compliance with the standards in R 338.11301.
- (b) Pass all parts of the national board examination that is conducted and scored by the joint commission on national dental examinations in order to qualify for the licensing examination provided in subdivision (c) of this rule. The requirement does not apply to applicants who have graduated before 1950.
- (c) Pass a dental simulated clinical written examination that is conducted and scored by the northeast regional board of dental examiners, incorporated, or a successor organization, and 1 of the following:
 - (i) Pass all parts of a clinical examination that is conducted and scored by the north east regional board of dental examiners, incorporated, or a successor organization, or pass all parts of a clinical examination that is conducted by a regional testing agency that is approved by the board.
 - (ii) Pass all parts of a clinical examination developed and scored by a state or other entity and that is substantially equivalent, as provided in R 338.11203(5), to the clinical examination of the north east regional board of dental examiners, incorporated, or a successor organization.

History: 1984 MR 7, Eff. July 19, 1984; 1989 MR 5, Eff. May 23, 1989; 1997 MR 1, Eff. February 15, 1997; 2006 MR 11, Eff. June 9, 2006.

R 338.11202 Licensure to practice dentistry; graduates of school

not meeting board standards; requirements.

Rule 1202. An individual who graduated from a school of dentistry that does not comply with the standards provided in R 338.11301 may be licensed by the board if the individual meets all of the following requirements:

- (a) Complies with section 16174 of the act.
- (b) Presents to the board a final, official transcript establishing graduation from a school in which he or she has obtained a dental degree. If the transcript is issued in a language other than English, an original, official translation shall also be submitted.
- (c) Meets one of the following requirements:
 - (i) Successfully completes a minimum 2-year program in dentistry in a dental school that complies with the standards in R 338.11301 and that leads to the awarding of a doctor of dental surgery (dds) or doctor of dental medicine (dmd) degree. The completion of the program shall be confirmed by the dean of the school attended or official transcripts from the dental school.
 - (ii) Successfully completes a minimum 2-year master's degree or certificate program in a dental school that complies with the standards in R 338.11301 and that leads to the awarding of a degree or certificate from a dental specialty program that complies with the standards in R 338.11501 and R 338.11503(b) and (c).
- (d) Passes all parts of the national board examination that is conducted and scored by the joint commission on national dental examinations.
- (e) Passes the dental simulated clinical written examination and a clinical examination, as described in R 338.11201(c).

History: 1989 MR 5, Eff. May 23, 1989; 1997 MR 1, Eff. February 15, 1997; 2006 MR 11, Eff. June 9, 2006.

R 338.11203 Dental examinations; required passing scores.

Rule 1203. (1) The board approves and adopts the examination developed and scored by the joint commission on national dental examinations. An applicant shall present evidence of passing each component of the examination with a converted score of not less than 75.

(2) The board approves and adopts the dental simulated clinical-written examination developed and scored by the north east regional board of dental examiners, incorporated, or a successor organization. An applicant shall present evidence of passing each component of the examination with a converted score of not less than 75.

(3) The board approves and adopts the clinical examination developed and scored by the north east regional board of dental examiners, incorporated. A passing score on the clinical examination shall be the score recommended by the north east regional board of dental examiners, incorporated, or its successor organization. In no case shall the applicant present evidence of less than a converted score of 75 on each component of the examination.

(4) The board approves and adopts the clinical examinations of other regional testing agencies or state boards if the examinations are considered to be substantially equivalent to the clinical examination of the north east regional board of dental examiners, incorporated. A passing score on the clinical examination shall be the score recommended by the sponsoring organization. In no case shall the applicant present evidence of less than a converted score of 75 on each

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component of the examination.

(5) To determine substantial equivalency as specified in subrule (4) of this rule, the board shall consider factors such as the following:

- (a) Subject areas included.
- (b) Detail of material.
- (c) Comprehensiveness.
- (d) Length of an examination.
- (e) Degree of difficulty.

(6) To demonstrate substantial equivalency as specified in subrule (4) of this rule, an applicant may be required to submit, or cause to be submitted, materials such as the following:

- (a) A copy of the examination booklet or description of the examination content and examination scores issued by the testing agency.
- (b) An affidavit from the appropriate state licensing agency that describes the examination and sets forth the legal standards which were in effect at the time of the examination.
- (c) An affidavit from a state licensing board or examination agency that describes the examination.

History: 1984 MR 7, Eff. July 19, 1984; 1997 MR 1, Eff. February 15, 1997; 2006 MR 11, Eff. June 9, 2006.

R 338.11205

Source: 1997 AACS.

R 338.11207

Source: 1997 AACS.

R 338.11211

Source: 1997 AACS.

R 338.11215

Source: 1997 AACS.

R 338.11217

Source: 1997 AACS.

R 338.11219

Source: 1997 AACS.

R 338.11221 Licensure by examination to practice dental hygiene; requirements; graduates of schools in compliance with board standards.

Rule 1221. An applicant for dental hygienist licensure by examination shall submit a completed application on a form provided by the department, together with the requisite fee. In addition to meeting the requirements of the code and administrative rules promulgated under the code, an applicant for dental hygienist licensure by examination shall meet all of the following requirements:

- (a) Graduate from a dental hygiene program in compliance with the standards in R 338.11303.
- (b) Pass all parts of the dental hygiene national board examination that is conducted and scored by the joint commission on national dental examinations in order to qualify for the licensing examination provided for in subdivision (c) of this rule. The requirement does not apply to applicants who have graduated before 1962.
- (c) Pass a dental hygiene simulated clinical written examination conducted and scored by the north east regional board of dental examiners, incorporated, or a successor organization, and 1 of the following:
 - (i) Pass all parts of a clinical examination that is conducted and scored by the north east regional board of dental examiners, incorporated, or a successor organization or pass all parts of a clinical examination that is conducted by a regional testing agency approved by the board.
 - (ii) Pass all parts of a clinical examination developed and scored by a state or other entity that is substantially equivalent to the clinical examination of the north east regional board of dental examiners, incorporated, or a successor organization.

History: 1984 MR 7, Eff. July 19, 1984; 1997 MR 1, Eff. February 15, 1997; 2006 MR 11, Eff. June 9, 2006.

R 338.11222 Licensure to practice dental hygiene; graduates of

schools not in compliance with board standards; requirements.

Rule 1222. An individual who graduated from a school of dental hygiene that is not in compliance with the standards

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provided in R 338.11303 may be licensed by the board if the individual meets all of the following requirements:

- (a) Complies with section 16174 of the act.
- (b) Presents to the board a final, official transcript establishing graduation from a school in which he or she has obtained a dental hygiene degree.
- (c) Successfully completes a program in a dental hygiene school that is in compliance with R 338.11303. The completion of the program shall be confirmed by the administrator of the school attended.
- (d) Passes all parts of the dental hygiene national board examination that is conducted and scored by the joint commission on national dental examinations.
- (e) Passes a dental hygiene simulated clinical written examination conducted and scored by the north east regional board of dental examiners, incorporated, or a successor organization, and 1 of the following:
 - (i) Passes all parts of a clinical examination that is conducted and scored by the north east regional board of dental examiners, incorporated, or a successor organization or pass all parts of a clinical examination that is conducted by a regional testing agency approved by the board.
 - (ii) Passes all parts of a clinical examination developed and scored by a state or other entity that is substantially equivalent to the clinical examination of the north east regional board of dental examiners, incorporated, or a successor organization.

History: 1989 MR 5, Eff. May 23, 1989; 1997 MR 1, Eff. February 15, 1997; 2006 MR 11, Eff. June 9, 2006.

R 338.11223 Registered dental hygienist examinations; passing scores.

Rule 1223.(1) The board approves and adopts the dental hygiene examination developed and scored by the joint commission on national dental examinations. An applicant shall present evidence of passing each component of the examination with a converted score of not less than 75.

(2) The board approves and adopts the dental hygiene simulated clinical written examination developed and scored by the northeast regional board of dental examiners, incorporated, or a successor organization. An applicant shall present evidence of passing each component of the examination with a converted score of not less than 75.

(3) The board approves and adopts the clinical examination developed and scored by the north east regional board of dental examiners, incorporated. A passing score on the clinical examination shall be the score recommended by the north east regional board of dental examiners, incorporated, or its successor organization. In no case shall the applicant present evidence of less than a converted score of 75 on each component of the examination.

(4) The board approves and adopts the clinical examinations of other regional testing agencies or state boards, if they are considered to be substantially equivalent. A passing score on the clinical examination shall be the score recommended by the sponsoring organization. In no case shall the applicant present evidence of less than a converted score of 75 on each component of the examination.

(5) To determine substantial equivalency, as specified in subrule (4) of this rule, the board shall consider factors such as the following:

- (a) Subject areas included.
- (b) Detail of material.
- (c) Comprehensiveness.
- (d) Length of an examination.
- (e) Degree of difficulty.

(6) To demonstrate substantial equivalency as specified in subrule (4) of this rule, an applicant may be required to submit, or cause to be submitted, materials such as the following:

- (a) A copy of the examination booklet or description of the examination content and examination scores issued by the testing agency.
- (b) An affidavit from the appropriate state licensing agency that describes the examination and sets forth the legal standards which were in effect at the time of the examination.
- (c) An affidavit from a state licensing board or examination agency that describes the examination.

History: 1984 MR 7, Eff. July 19, 1984; 1997 MR 1, Eff. February 15, 1997; 2006 MR 11, Eff. June 9, 2006.

R 338.11225

Source: 1997 AACS.

R 338.11227

Source: 1997 AACS.

R 338.11233

Source: 1984 AACS.

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R 338.11235

Source: 1984 AACCS.

R 338.11239

Source: 1989 AACCS.

R 338.11241

Source: 1984 AACCS.

R 338.11245

Source: 1984 AACCS.

R 338.11247 Limited licenses; issuance; requirements.

Rule 1247.(1) The board may issue a limited license, under section 16182(2)(a) of the act, to an individual who is a graduate of a dental, dental hygiene, or dental assisting program approved by the board and who is enrolled or involved in a postgraduate course of study.

(2) The board may issue a limited license, under section 16182(2)(b) of the act, to an individual who is a graduate dentist, dental hygienist, or dental assistant who is employed by a dental program or a dental auxiliary program as a faculty member, and who functions only in a nonclinical academic research setting or in an administrative setting.

(3) The board may issue a limited license, under section 16182(2)(c) of the act, to an individual who is a graduate dentist, dental hygienist, or dental assistant and who is employed by a dental program or a dental auxiliary program as a faculty member. A limited licensed dentist may perform dental procedures upon patients while employed as a faculty member by the dental or dental auxiliary program. A limited licensed dental hygienist or a limited licensed dental assistant may perform dental procedures upon patients while employed as a faculty member of a dental or dental auxiliary program, if such procedures are performed under the general supervision of a faculty member who is fully licensed as a dentist. An individual licensed under this subrule shall not do either of the following:

(a) Hold himself or herself out to the public as being engaged in the practice of dentistry other than as a faculty member.

(b) Provide dental services outside his or her employment as a faculty member.

(4) An individual applying for a limited license under section 16182(2) of the act shall meet both of the following requirements:

(a) Comply with section 16174 of the act.

(b) Submit proof of graduation from an approved school of dentistry, dental hygiene, or dental assisting or a certified copy of the diploma and transcript from an unapproved school of dentistry, dental hygiene, or dental assisting.

(c) Submit proof of appointment to a faculty position.

(5) Limited licenses shall be renewed annually at the discretion of the board.

History: 1984 MR 7, Eff. July 19, 1984; 2006 MR 11, Eff. June 9, 2006.

R 338.11249

Source: 1998-2000 AACCS.

R 338.11253

Source: 1984 AACCS.

R 338.11255 Licensure by endorsement of dentist; requirements.

Rule 1255.(1) A dentist applying for licensure by endorsement shall be currently licensed in another state or territory of the United States and shall comply with section 16186 of the act and all of the following requirements:

(a) Have graduated from a school which meets the standards provided in R 338.11301 and submit original, official transcripts of professional education and documentation of graduation for board evaluation.

(b) Have passed all phases of the national board examination for dentists, in sequence. This requirement is waived for persons who graduated from an accredited school before 1950.

(c) Be endorsed, on a form supplied by the board, by the licensing agency of any state or territory of the United States in which the applicant holds a current license or ever held a license as a dentist.

(d) Show proof, on a form supplied by the board, of having no record of final or pending disciplinary action in any state or territory of the United States in which the applicant is or has been licensed.

(e) Show proof of successful completion of 1 of the regional examinations as described in R 338.11203 (2), (3), and (4). This requirement is waived for individuals who were licensed initially in another state or territory of the United States before 2002 and who were not required to complete any regional examination as part of the initial licensing process as confirmed by the

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state or territory of the United States in which the initial license was awarded.

(2) The board may deny an application for licensure by endorsement upon finding the existence of a board action in any other state or territory of the United States for a violation related to applicable provisions of section 16221 of the act or upon determining that the applicant does not fulfill the requirements of section 16186 of the act.

History: 1989 MR 5, Eff. May 23, 1989; 2006 MR 11, Eff. June 9, 2006.

R 338.11259 Licensure by endorsement of dental hygienists; requirements.

Rule 1259.(1) A dental hygienist applying for licensure by endorsement shall be currently licensed in another state or territory of the United States and shall comply with section 16186 of the act and all of the following requirements:

(a) Have graduated from a school which meets the standards provided in R 338.11303 and submit original, official transcripts of professional education and documentation of graduation for board evaluation.

(b) Have passed all phases of the national board examination for dental hygienists. This requirement is waived for persons who graduated from an accredited school before 1962.

(c) Be endorsed, on a form supplied by the board, by the licensing agency of any state or territory of the United States in which the applicant holds a current license or ever held a dental hygienist license.

(d) Show proof, on a form supplied by the board, of having no record of final or pending disciplinary action in any state or territory of the United States in which the applicant is or has been licensed.

(e) Show proof of successful completion of a substantially equivalent written and clinical examination under R 338.1223 (2), (3), and (4). This requirement is waived for individuals who were licensed initially in another state or territory of the United States before 2002 and who were not required to complete any regional examination as part of the initial licensing process as confirmed by the state or territory of the United States in which the initial license was awarded.

(2) The board may deny an application for licensure by endorsement upon finding the existence of a board action in any other state or territory of the United States for a violation related to applicable provisions of section 16221 of the act or upon determining that the applicant does not fulfill the requirements of section 16186 of the act.

History: 1989 MR 5, Eff. May 23, 1989; 2006 MR 11, Eff. June 9, 2006.

R 338.11261 Licensure by endorsement of registered dental assistants; requirements.

Rule 1261. (1) A dental assistant applying for licensure by endorsement as a registered dental assistant shall be currently licensed or registered in another state or territory of the United States for performance of expanded functions as described in R 338.11405 and shall comply with section 16186 of the act and all of the following requirements:

(a) Have graduated from a school which meets the standards provided in R 338.11307 and submit original, official transcripts of professional education and documentation of graduation for board evaluation.

(b) Be endorsed, on a form supplied by the board, by the licensing agency of any state or territory of the United States in which the applicant holds a current license for performance of expanded functions.

(c) Show proof, on a form supplied by the board, of having no record of final or pending disciplinary action in any state or territory of the United States in which the applicant is or has been licensed.

(d) Show proof of successful completion of a substantially equivalent written and clinical examination under R 338.11239.

(2) To determine substantial equivalency as specified in subrule (1)(d) of this rule, the board will consider factors such as the following:

(a) Subject areas included.

(b) Detail of material.

(c) Comprehensiveness.

(d) Length of the examination.

(e) Degree of difficulty.

(3) To demonstrate substantial equivalency as specified in subrule (1)(d) of this rule, the applicant may be required to submit or cause to be submitted such materials as the following:

(a) A certified copy of the examination.

(b) An affidavit from the responsible official of the appropriate state agency describing the examination and setting forth the legal standards which were in effect at the time of the examination.

(c) An affidavit from the responsible official within a state society or another organization describing the examination.

(d) Other credible evidence.

(4) A dental assistant who does not fulfill the requirements of subrule (1) shall not be eligible for licensure by endorsement in this state and shall be required to comply with the provisions of R 338.11235.

(5) The board may deny an application for licensure by endorsement upon finding the existence of a board action in any other state or territory of the United States for a violation related to applicable provisions of section 16221 of the act or upon determining that the applicant does not fulfill the requirements of section 16186 of the act.

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History: 1989 MR 5, Eff. May 23, 1989; 2006 MR 11, Eff. June 9, 2006.

R 338.11267

Source: 1989 AACCS.

PART 3. EDUCATION

R 338.11301 Approval of dental schools; standards; adoption by reference.

Rule 1301.(1) The board adopts by reference in these rules the standards of the commission on dental accreditation of the American dental association, as set forth in the publication entitled "Accreditation Standards for Dental Education Programs," copyright 1998 and revised 2005, as the standards by which the board shall determine whether to approve a school that complies with these standards. Certification by the commission on dental accreditation that a school complies with these standards constitutes a prima facie showing that the school complies with these standards. The board shall actively participate in the evaluation process.

(2) These standards may be obtained at no cost from the Commission on Dental Accreditation of the American Dental Association, 211 East Chicago Avenue, Chicago, IL 60611-2678 or at no cost from the association's website at <http://www.ada.org>. Copies of these standards are available for inspection and distribution at cost from the Michigan Board of Dentistry, Department of Community Health, 611 West Ottawa, P. O. Box 30670, Lansing, MI 48909.

History: 1984 MR 7, Eff. July 19, 1984; 1997 MR 1, Eff. February 15, 1997; 2006 MR 11, Eff. June 9, 2006.

R 338.11303 Approval of dental hygiene schools; standards; adoption by reference.

Rule 1303.(1) The board adopts by reference in these rules the standards of the commission on dental accreditation of the American dental association, as set forth in the publication entitled "Accreditation Standards for Dental Hygiene Education Programs," copyright 1998 and revised 2005, as the standards by which the board shall determine whether to approve a school that prepares persons for licensure as dental hygienists. Certification by the commission on dental accreditation that a school complies with these standards constitutes a prima facie showing that the school complies with these standards. The board shall actively participate in the evaluation process.

(2) These standards may be obtained at no cost from the Commission on Dental Accreditation of the American Dental Association, 211 East Chicago Avenue, Chicago, IL 60611-2678 or at no cost from the association's website at <http://www.ada.org>. Copies of these standards are available for inspection and distribution at cost from the Michigan Board of Dentistry, Department of Community Health, 611 West Ottawa, P.O. Box 30670, Lansing, MI 48909.

History: 1984 MR 7, Eff. July 19, 1984; 1997 MR 1, Eff. February 15, 1997; 2006 MR 11, Eff. June 9, 2006.

R 338.11307 Approval of dental assisting schools; standards; adoption by reference.

Rule 1307. (1) The board adopts by reference the standards of the commission on dental accreditation of the American dental association, as set forth in the publication entitled "Accreditation Standards for Dental Assisting Education Programs," copyright 1998 and revised 2005, as the standards by which the board shall determine whether to approve a school that complies with these standards. Certification by the commission on dental accreditation that a school complies with these standards constitutes a prima facie showing that the school complies with the standards. The board shall actively participate in the evaluation process.

(2) These standards may be obtained at no cost from the Commission on Dental Accreditation of the American Dental Association, 211 East Chicago Avenue, Chicago, IL 60611-2678 or at no cost from the association's website at <http://www.ada.org>. Copies of these standards are available for inspection and distribution at cost from the Michigan Board of Dentistry, Department of Community Health, 611 West Ottawa, P.O. Box 30670, Lansing, MI 48909.

History: 1984 MR 7, Eff. July 19, 1984; 1997 MR 1, Eff. February 15, 1997; 2006 MR 11, Eff. June 9, 2006.

PART 4. DELEGATION, SUPERVISION, ASSIGNMENT

R 338.11403 Assistant; delegation of intra-oral procedures under general supervision.

Rule 1403. (1) The following intra-oral procedures shall not be delegated to an assistant unless the procedures are performed under general supervision:

- (a) Trial sizing of orthodontic bands.
- (b) Holding the matrix for anterior resin restorations.
- (c) Making impressions for study and opposing models.
- (d) Applying of topical anesthetic solutions (nonaerosol).
- (e) Instructing in the use and care of dental appliances.

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(f) Operating dental radiographic equipment if the assistant has successfully completed a course in dental radiography which is substantially equivalent to a course taught in a program approved by the board pursuant to R 338.11303 or R 338.11307. This subdivision takes effect July 26, 1992.

History: 1984 MR 7, Eff. July 19, 1984; 1989 MR 5, Eff. May 23, 1989; 2006 MR 11, Eff. June 9, 2006.

R 338.11404 Assistant; delegation of intra-oral procedures under direct supervision.

Rule 11404. (1) The following intra-oral procedures shall not be delegated to an assistant unless the procedures are performed under direct supervision:

Placement and removal of orthodontic separators.

(b) Placement and removal of orthodontic elastics, ligatures, and arch wires.

(2) Except for those procedures described in R 338.11403 and this rule, intra-oral procedures shall not be delegated to an assistant.

History: 2006 MR 11, Eff. June 9, 2006.

R 338.11405 Registered dental assistant; performance of intra-oral procedures under general supervision.

Rule 1405. (1) A dentist shall not assign the intra-oral dental procedures detailed in R 338.11403(1) and the following additional intra-oral procedures to a registered dental assistant unless the procedures are performed under the general supervision of a dentist:

(a) Placing and removing a rubber dam.

(b) Placing and removing a nonmetallic temporary restoration with nonrotary instruments.

(c) Removing excess cement from supragingival surfaces of a tooth with nonrotary instruments.

(d) Applying anticariogenics after oral prophylaxis, when ordered by a licensed dentist.

(e) Inspecting an oral cavity with a mouth mirror, including chartings of lesions, existing restorations, missing teeth, and classification of occlusion.

(f) Sizing of temporary crowns and bands.

(2) A dentist shall not assign the following additional intra-oral procedures to a registered dental assistant unless the registered dental assistant has successfully completed an approved course, as defined in section 16611(12) and (13) of the act. These procedures shall be performed under the general supervision of a dentist:

Performing pulp vitality testing.

Placing and removing matrices and wedges.

Applying cavity liners and bases.

Placing and removing nonepinephrine retraction cords.

Applying desensitizing agents.

(f) Making an impression for orthodontic appliances, mouth guards, bite splints, and bleaching trays.

Drying endodontic canals with absorbent points.

(h) Etching and placing adhesives before placement of orthodontic brackets.

History: 1984 MR 7, Eff. July 19, 1984; 1999 MR 9, Eff. Sept. 28, 1999; 2006 MR 11, Eff. June 9, 2006.

R 338.11405a Registered dental assistant; assignment of intra-oral procedures under direct supervision.

Rule 11405a. (1) A dentist shall not assign to a registered dental assistant the intra-oral dental procedures specified in R 338.11404(1) and the following intra-oral procedures unless the procedures are performed under the direct supervision of a dentist:

(a) Placing and removing periodontal dressings.

(b) Temporarily cementing and removing temporary crowns and bands.

(c) Removing sutures.

(d) Polishing specific teeth with a slow-speed rotary hand piece immediately before procedures that require acid etching, for any of the following:

(i) Placing sealants.

(ii) Placing resin-bonded orthodontic appliances.

(iii) Placing direct restorations by the dentist.

(2) Except for the procedures described in this rule, a dentist shall not assign intra-oral procedures to a registered dental assistant.

(3) A dentist shall not assign the following intra-oral procedures to a registered dental assistant unless the registered dental assistant has successfully completed an approved course, as defined in section 16611(11) of the act, followed by a comprehensive clinical experience of sufficient duration that validates clinical competence through a criterion-based assessment instrument. These procedures shall be performed under the direct supervision of a dentist:

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- (a) Placing, condensing, and carving amalgam restorations.
 - (b) Making final impressions for indirect restorations.
 - (4) A dentist shall not assign the assisting and monitoring of the administration of nitrous oxide analgesia by the dentist or registered dental hygienist to a registered dental assistant unless the registered dental assistant has successfully completed an approved course, as defined in section 16611(7) of the act, in the assisting and monitoring of the administration of nitrous oxide analgesia. This procedure shall be performed under the direct supervision of a dentist.
 - (5) Except for the procedures described in R 338.11405 and this rule, a dentist shall not assign intra-oral procedures to a registered dental assistant.
- History: 2006 MR 11, Eff. June 9, 2006.

R 338.11406 Assignment of intra-oral procedures to registered dental hygienist.

Rule 1406. The intra-oral procedures listed in R 338.11405(1)(b) and (f) and shall not be assigned to a registered dental hygienist unless the registered dental hygienist is also licensed as a registered dental assistant under R 338.11235.

History: 1984 MR 7, Eff. July 19, 1984; 2006 MR 11, Eff. June 9, 2006.

R 338.11408 Registered dental hygienist; performance of intra-oral procedures under assignment of dentist.

Rule 1408.(1) A registered dental hygienist shall not perform the following intra-oral dental procedures unless the procedures are performed under the assignment of a dentist as defined in section 16601 of the code:

- (a) Removing accretions and stains from the surfaces of the teeth and applying topical agents essential to complete prophylaxis.
- (b) Root planing or debridement.
- (c) Polishing and contouring restorations.
- (d) Applying anticariogenic agents.
- (e) Charting of the oral cavity, including all of the following:
 - (i) Periodontal charting.
 - (ii) Intra- and extra-oral examining of soft tissue.
 - (iii) Charting of radiolucencies or radiopacities, existing restorations, and missing teeth.
- (f) Preliminary examining that includes both of the following:
 - (i) Classifying occlusion.
 - (ii) Testing pulp vitality using an electric pulp tester.
- (g) Applying nonaerosol and noncaustic topical anesthetic agents by prescription of the dentist.
- (h) Placing and removing intra-coronal temporary sedative dressings.
- (i) Taking intra-oral measurements for orthodontic procedures.
- (j) Placing and removing postextraction and periodontal dressings.
- (k) Removing excess cement from tooth surfaces.
- (l) Providing nutritional counseling for oral health and maintenance.
- (m) Applying commonly accepted emergency procedures.
- (n) Removing sutures.
- (o) Placing and removing a rubber dam.
- (p) Making impressions for study or opposing models, orthodontic appliances, mouth guards, bite splints, and bleaching trays.
- (q) Operating dental radiographic equipment.
- (r) Placing subgingival medicaments.
- (s) Temporary cementing and removing of temporary crowns and bands.

History: 1984 MR 7, Eff. July 19, 1984; 1999 MR 9, Eff. Sept. 28, 1999; 2006 MR 11, Eff. June 9, 2006.

R 338.11409 Registered dental hygienist; assignment of intra-oral procedures under direct supervision.

Rule 11409. (1) A registered dental hygienist shall not perform the following intra-oral dental procedures unless the procedures are performed under the direct supervision of a dentist as defined in section 16601 of the code:

Performing soft tissue curettage.

- (b) Administering intra-oral block or infiltration anesthesia or nitrous oxide analgesia or both to a patient 18 years of age or older and only if the registered dental hygienist has met the following requirements:
 - (i) Successfully completed an approved course, as defined in section 16611(4) of the act, in the administration of local anesthesia and/or nitrous oxide analgesia.
 - (ii) Successfully completed a state or regional board administered written examination in local anesthesia within 18 months

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of completion of the approved course.

(iii) Successfully completed a state or regional board administered written examination on nitrous oxide analgesia, within 18 months of completion of the approved course, if such an examination exists.

(iv) Maintains and provides evidence of current certification in basic or advanced cardiac life support.

(2) A dental hygienist who meets the requirements of this rule may not administer more than 50% nitrous oxide.

History: 2006 MR 11, Eff. June 9, 2006.

PART 5. SPECIALTIES

R 338.11501

Source: 1994 AACCS.

R 338.11503

Source: 1994 AACCS.

R 338.11505

Source: 1994 AACCS.

R 338.11507

Source: 1984 AACCS.

R 338.11509

Source: 1984 AACCS.

R 338.11511

Source: 1984 AACCS.

R 338.11512

Source: 1994 AACCS.

R 338.11513

Source: 1984 AACCS.

R 338.11515

Source: 1984 AACCS.

R 338.11517

Source: 1998-2000 AACCS.

R 338.11519

Source: 1984 AACCS.

R 338.11521

Source: 1984 AACCS.

R 338.11523

Source: 1984 AACCS.

R 338.11525

Source: 1994 AACCS.

R 338.11527

Source: 1984 AACCS.

PART 6. GENERAL ANESTHESIA AND INTRAVENOUS CONSCIOUS SEDATION

R 338.11601

Source: 1990 AACCS.

R 338.11602

Source: 1997 AACs.

R 338.11603 Adoption of standards; effect of certification of programs.

Rule 3.(1)The board adopts the standards for advanced training in anesthesia and pain control set forth by the commission on dental education of the American dental association in part 2 of the publication entitled "Guidelines for Teaching the Comprehensive Control of Anxiety and Pain in Dentistry," October 2003 edition.Part 2 of the guidelines may be obtained at no cost from the Commission on Dental Education, American Dental Association, 211 E. Chicago Avenue, Chicago, IL60611, or on the association's website at <http://www.ada.org/prof/resources>.A copy of the standards is available for inspection and distribution at cost from the Michigan Board of Dentistry, Department of Community Health, 611 West Ottawa, P.O. Box 30670, Lansing, MI 48909.Certification of programs by the council on dental education as meeting the standards adopted constitutes a prima facie showing that the program is in compliance with the standards.

(2) The board adopts the standards for training in intravenous conscious sedation and related subjects set forth by the council on dental education of the American dental association in part 1 of the publication entitled "Guidelines for Teaching the Comprehensive Control of Anxiety and Pain in Dentistry," October 2003 edition.Part 1 of the guidelines may be obtained at no cost from the Commission on Dental Education, American Dental Association, 211 E. Chicago Avenue, Chicago, IL60611, or on the association's website at <http://www.ada.org/prof/resources>.A copy of the standards is available for inspection and distribution at cost from the Michigan Board of Dentistry, Department of Community Health, 611 West Ottawa, P.O. Box 30670, Lansing, MI 48909.Certification of programs by the council on dental education as meeting the standards adopted constitutes a prima facie showing that the program is in compliance with the standards.

(3) The board adopts the standards for credentialing in basic and advanced life support set forth by the American heart association in the guidelines for cardiopulmonary resuscitation and emergency cardiac care for professional providers and published in "Guidelines 2000 for Cardiopulmonary Resuscitation and Emergency Cardiovascular Care (70-2041).A copy of the guidelines for cardiopulmonary resuscitation and emergency cardiac care may be obtained from the American Heart Association, 7272 Greenville Avenue, Dallas, TX 75231 or at <http://www.americanheart.org>, at a cost of \$20.00 as of the adoption of these rules.A copy of this document is available for inspection and distribution at cost from the Michigan Board of Dentistry, Department of Community Health, 611 West Ottawa, P.O. Box 30670, Lansing, MI48909.

(4) The board adopts the standards regarding the equipment within a facility set forth by the American association of oral and maxillofacial surgeons in the publication entitled "Office Anesthesia Evaluation Manual," sixth edition.A copy of this manual may be obtained from the American Association of Oral and Maxillofacial Surgeons, 9700 West Bryn Mawr Avenue, Rosemont, IL 60018, or at the association's website at <http://www.aaoms.org> at a cost of \$95 for members and professional/allied staff, \$285 for nonmembers, and \$190 for institutions as of the adoption of these rules.A copy of this document is available for inspection and distribution at cost from the Michigan Board of Dentistry, Department of Community Health, 611 West Ottawa, P.O. Box 30670, Lansing, MI48909.

History: 1990 MR 7, Eff. July 31, 1990; 1886 MR 1, Eff. February 15,1997; 2006 MR 11, Eff. June 9, 2006.

R 338.11604

Source: 1990 AACs.

R 338.11605 Enteral sedation; requirements for approval of course and instructor.

Rule 11605. (1) A course in enteral sedation shall be approved by the board of dentistry and shall, at a minimum, be consistent with the enteral sedation course as outlined in the American dental association's educational guidelines "Part Three: Teaching the Comprehensive Control of Pain and Anxiety in a Continuing Education Program," October 2003, whose guidelines are adopted by the board.Such a course must provide training in patient assessment, recognition of emergencies and airway management, including the ability to manage an unconscious airway.Part 3 of the guidelines may be obtained at no cost from the American Dental Association, 211 E. Chicago Avenue, Chicago, IL 60611, or on the association's website at <http://www.ada.org>.A copy of the guidelines is available for inspection and distribution at cost from the Michigan Board of Dentistry, Department of Community Health, 611 West Ottawa, P.O. Box 30670, Lansing, MI 48909.

(2) An instructor of a course in enteral sedation shall be approved by the board of dentistry and shall have at least 3 years experience which includes his or her formal postdoctoral training in anxiety and pain control.

(3) An instructor of an approved enteral sedation course shall certify the competency of a participant upon a participant's satisfactorily completing training in each conscious sedation technique, including instruction, clinical experience, and airway management.

History: 2006 MR 11, Eff. June 9, 2006.

PART 7. CONTINUING EDUCATION

R 338.11701

Source: 2004 AACs.

R 338.11703

Source: 2004 AACs.

R 338.11704

Source: 2004 AACs.

R 338.11704a Acceptable continuing education for dental hygienists and dental assistants; limitations.

Rule 4a. The board shall consider any of the following as acceptable continuing education:

- (a) Successful completion of a course or courses offered for credit in a dental school or hospital-based dental specialty program approved by the board under R 338.11301, a dental hygiene school approved by the board under R 338.11303, or a dental assisting school approved by the board under R 338.11307. Ten hours of continuing education shall be credited for each quarter credit earned and 15 hours shall be credited for each semester credit earned, without limitation.
- (b) Attendance at a continuing education program offered by a dental school or hospital-based dental specialty program approved by the board under R 338.11301, a dental hygiene school approved by the board under R 338.11303, or a dental assisting school approved by the board under R 338.11307. One hour of continuing education shall be credited for each hour of program attendance, without limitation.
- (c) Attendance at a continuing education program approved by the board under R 338.11705 of this part. One hour of continuing education shall be credited for each hour of program attendance, without limitation.
- (d) Development and presentation of a table clinic demonstration or a continuing education lecture offered in conjunction with the presentation of continuing education programs approved by the board. One hour of continuing education shall be credited for each hour devoted to the development and initial presentation of a table clinic demonstration or a continuing education lecture, with a maximum of 10 hours of continuing education credited for the development and presentation of the same table clinic demonstration or continuing education lecture.
- (e) Twelve hours of continuing education shall be credited for the initial publication of an article or articles related to the practice of dentistry, dental hygiene, or dental assisting in the journal of an accredited school of dentistry, dental hygiene or dental assistant, or in a state or state component association of dentists, dental specialists, dental hygienists, or dental assistants.
- (f) Twenty-five hours of continuing education shall be credited for the initial publication of an article or articles related to the practice of dentistry, dental hygiene, or dental assisting in a textbook or in the journal of a national association of dentists, dental specialists, dental hygienists, or dental assistants.
- (g) Twelve hours of continuing education may be earned in board-approved, online continuing education activities.
- (h) One hour of continuing education shall be credited for each hour of reading articles and viewing or listening to media, other than online programs, devoted to dental, dental hygiene, or dental assisting education with a maximum of 10 hours credited under this category.
- (i) Renewal of a license held in another state that requires continuing education for license renewal that is substantially equivalent to that required in these rules if the applicant resides and practices in another state. For a registered dental hygienist or registered dental assistant, 36 hours of continuing education shall be credited for evidence of current licensure in such other state.
- (j) For a registered dental assistant, meeting the requirements for recertification in R 338.11705(3). Thirty-six hours of continuing education shall be credited for evidence of current certification, other than life certification, by the dental assisting national board.
- (k) One continuing education contact hour may be granted for each hour of program attendance at a continuing education program which has been granted approval by another state board of dentistry.
- (l) Six hours of continuing education shall be credited to dental hygienists or registered dental assistants for attendance at dental related programs which are documented by the licensee as relevant to health care and advancement of the licensee's dental education. The board shall deny a request for approval if the continuing education request does not meet the criteria used by the board for approval of continuing education sponsors.
- (m) A maximum of 18 credit hours per renewal period may be earned for programs related to specific dental specialty topics approved for category 1 continuing education by the boards of medicine or osteopathic medicine.

History: 2004 MR 11, Eff. June 15, 2004; 2006 MR 11, Eff. June 9, 2006.

R 338.11705 Standards and requirements; adoption by reference.

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Rule 5.(1) The board approves and adopts by reference the standards and criteria of the national sponsor approval program of the academy of general dentistry for approval of continuing education sponsoring organizations, institutions, and individuals, which are set forth in the publication entitled "Program Approval for Continuing Education (PACE), a Guidebook, Revised July 2002". Information on the pace standards and criteria is available at no cost from the Academy of General Dentistry, 211 East Chicago Avenue, Suite 900, Chicago, IL 60611 or from the academy's internet website at <http://www.agd.org>. A copy of the guidebook is available for inspection and distribution at no cost from the Michigan Department of Community Health, Bureau of Health Professions, 611 West Ottawa, P.O. Box 30670, Lansing, MI 48909. Approval of a sponsor by the academy of general dentistry committee on national sponsor approvals or by any academy of general dentistry constituent academy shall constitute prima facie evidence that the sponsor meets the standards and criteria adopted by the board.

(2) The board approves and adopts by reference the standards and criteria of the National Sponsor Approval Program of the American Dental Association Continuing Education Recognition Program (ADA CERP) for approval of continuing education sponsoring organizations, which are set forth in the publication entitled "ADA CERP Recognition Standards and Procedures, Revised April 2002." A copy of this publication may be obtained at no cost from the association at ADA CERP 211 E. Chicago Avenue, Chicago, IL 60611-2678 or from the association's internet website at <http://www.ada.org/prof/ed/ce/cerp>. A copy of the publication is available for inspection and distribution at cost from the Department of Community Health, Bureau of Health Professions, 611 West Ottawa, P.O. Box 30670, Lansing, MI 48909. Approval of a sponsor by the ADA CERP or by any constituent group of ADA CERP shall constitute prima facie evidence that the sponsor meets the standards and criteria adopted by the board.

(3) The board approves and adopts by reference the requirements for recertification established by the dental assisting national board and set forth in the publication entitled "2002 Recertification Guidelines & Requirements." A copy of the publication may be obtained at no cost from the Dental Assisting National Board, 676 N. St. Clair Street, Suite 1880, Chicago, IL 60611 or from the national board's internet website at <http://www.danb.org>. A copy of the guidelines and requirements are available for inspection and distribution at cost from the Department of Community Health, Bureau of Health Professions, 611 West Ottawa, P.O. Box 30670, Lansing, MI 48909.

(4) The board shall consider any continuing education program that is offered by a sponsor that applies to the board and demonstrates it substantially meets the standards and criteria adopted by the board as a continuing education program approved by the board.

(5) The board adopts by reference the standards for certification in basic and advanced cardiac life support set forth by the American heart association in the standards and guidelines for cardiopulmonary resuscitation and emergency cardiac care for professional providers and published in "Guidelines 2000 for Cardiopulmonary Resuscitation and Emergency Cardiovascular Care (70-2041). A copy of the guidelines for cardiopulmonary resuscitation and emergency cardiac care may be obtained from the American Heart Association, 7272 Greenville Avenue, Dallas, TX 75231 or at <http://www.ahajournals.org> at a cost of \$20.00 as of the adoption of these rules. A copy of this document is available for inspection and distribution at cost from the Department of Community Health, Bureau of Health Professions, 611 West Ottawa, P.O. Box 30670, Lansing, MI 48909.

(6) The board may approve a state, regional, or national dental organization as an acceptable provider of continuing education courses if the organization presents standards, criteria, and course monitoring procedures for its courses that are acceptable to the board. This approval may be withdrawn if the board determines the organization is not complying with the standards and criteria presented. The standards, criteria, and monitoring procedures will be retained in the department's board files. An organization shall update its file with the department every 5 years.

History: 1991 MR 5, Eff. June 1, 1991; 2004 MR 11, Eff. June 15, 2004; 2006 MR 11, Eff. June 9, 2006.

CHIROPRACTIC

R 338.12001 Definitions.

Rule 1. As used in these rules:

(a) "Adjustment apparatus" means a tool or device used to apply a mechanical force to correct a subluxation or misalignment of the vertebral column or related bones and tissues for the establishment of neural integrity.

(b) "Analytical instruments" means instruments which monitor the body's physiology for the purpose of determining subluxated or misaligned vertebrae or related bones and tissues.

(c) "Code" means 1978 PA 368, MCL 333.1101.

(d) "Rehabilitative exercises" means the coordination of a patient's exercise program, the performance of tests and measurements, instruction and consultation, supervision of personnel, and the use of exercise and rehabilitative procedures, with or without assistive devices, for the purpose of correcting or preventing a subluxated or misaligned vertebrae of the vertebral column.

History: 1979 ACS 9, Eff. Jan. 14, 1982; 2006 MR 9, Eff. May 3, 2006.

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R 338.12002

Source: 1998-2000 AACCS.

R 338.12003 Licensure by examination.

Rule 3.(1) An applicant for licensure by examination shall submit a completed application on a form provided by the department, together with the requisite fee. In addition to meeting the requirements of the code and these rules, an applicant for licensure by examination shall meet both of the following provisions:

(a) Have graduated from a program or institution of chiropractic that meets the educational standards in R 338.12006 and have final, official transcripts provided to the department from the educational institution.

(b) Shall meet 1 of the following:

(i) For applications filed on or before December 31, 2000, an applicant shall have achieved either of the following:

(A) A passing score on the state examination which is approved by the Michigan board of chiropractic and which is administered by the department of community health under the provisions of R 338.12005(1).

(B) Passing scores on parts I and II of the national board examination. The scores and verification shall be sent directly from the national board office to the chiropractic board office.

(ii) For an application filed on or after January 1, 2001, an applicant shall have passed parts I, II, and III of the national board examination that is conducted and scored by the national board of chiropractic examiners.

(iii) For an application filed on or after January 1, 2007, an applicant shall have passed parts I, II, III and IV of the national board examination that is conducted and scored by the national board of chiropractic examiners.

History: 1979 ACS 9, Eff. Jan. 14, 1982; 1987 MR 3, Eff. Apr. 15, 1987; 1992 MR 12, Eff. Dec. 19, 1992; 2000 MR 6, Eff. May 4, 2000; 2001 MR 8, Eff. May 4, 2001; 2006 MR 9, Eff. May 3, 2006.

R 338.12004

Source: 1998-2000 AACCS.

R 338.12005 Examination adoption.

Rule 5. The board approves and adopts the national board examination in chiropractic that is conducted and scored by the national board of chiropractic examiners. The passing score for the national board examination parts I, II, III, and IV shall be a converted score of not less than 75.

History: 1979 ACS 9, Eff. Jan. 14, 1982; 1987 MR 3, Eff. Apr. 15, 1987; 2000 MR 6, Eff. May 4, 2000; 2006 MR 9, Eff. May 3, 2006.

R 338.12006 Adoption of educational standards by reference.

Rule 6. The board adopts by reference the standards of the council on chiropractic education, commission on accreditation, as specified in the publication entitled, "Standards for Doctor of Chiropractic Programs and Requirements for Institutional Status" January 2004. The standards are available from The Council on Chiropractic Education, 8049 N. 85TH Way, Scottsdale, Arizona 85258 - 4321, or at the council's website at <http://www.cce-usa.org> at no cost. Copies of the standards are available for inspection and distribution at cost from the Board of Chiropractic, Bureau of Health Professions, Department of Community Health, 611 West Ottawa Street, P. O. Box 30670, Lansing, MI 48909.

History: 1979 ACS 9, Eff. Jan. 14, 1982; 2000 MR 6, Eff. May 4, 2000; 2006 MR 9, Eff. May 3, 2006.

R 338.12007

Source: 1998-2000 AACCS.

R 338.12008 License renewal and relicensure.

Rule 8. (1) An applicant for renewal of a license to practice chiropractic shall have completed, in the 2-year period immediately preceding the application, 30 hours of continuing education in programs approved by the board.

(a) An applicant for renewal of a license to practice chiropractic under section 16201(2) of the code shall have completed in each renewal period, as part of the required hours of continuing education, 1 continuing education hour on sexual boundaries, 1 continuing education hour on ethics, and 1 continuing education hour on pain and symptom management.

(b) Of the required hours of continuing education, not more than 6 continuing education hours may be in board-approved online computer programs.

(c) This subrule does not apply to licensees who have obtained their initial chiropractic license within the 2-year period immediately preceding the expiration date of the initial license.

(2) An applicant for relicensure under the provisions of section 16201(3) of the code shall comply with either of the

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following requirements:

(a) Have completed, in the 3-year period immediately preceding the application for relicensure, 42 hours of continuing education in programs approved by the board with not less than 24 hours in courses on chiropractic adjusting techniques. The following also apply:

(i) Have completed as part of the required hours of continuing education, 1 continuing education hour in sexual boundaries, 1 continuing education hour in ethics, and 1 continuing education hour in pain and symptom management.

(ii) Have completed as part of the required hours of continuing education, not more than 6 continuing education hours in board-approved online computer programs.

(b) Have been continuously licensed and engaged in the practice of chiropractic in another state during the 3-year period immediately preceding the application for relicensure.

History: 1979 ACS 9, Eff. Jan. 14, 1982; 2000 MR 6, Eff. May 4, 2000; 2006 MR 9, Eff. May 3, 2006.

R 338.12008a Continuing education; approval of programs; acceptable and unacceptable programs.

Rule 8a.(1) The board shall consider as board-approved continuing education, the successful completion of a course or courses offered for credit in a chiropractic school approved by the board under R 338.12006.

(2) The board shall consider both of the following as continuing education:

(a) Successful completion of a continuing education program offered by a chiropractic school approved by the board under R 338.12006. The school shall annually provide the department with the names of the programs as well as dates and times that the programs were offered, and the locations of the training offered in Michigan.

(b) One continuing education contact hour may be granted for each 50 to 60 minutes of program attendance, without limitation, at a continuing education program, which has been granted approval by another state board of chiropractic.

(3) The board shall consider requests for approval of continuing education programs by sponsors who submit applications on a form provided by the department. For purposes of this rule, 1 hour of continuing education is defined as 50 minutes. The board shall evaluate applications for approval based upon all of the following:

(a) Programs shall have content outlines and schedules.

(b) Sponsors shall provide a listing of program materials.

(c) Sponsors shall provide information relative to the method for monitoring attendance.

(d) Sponsors shall furnish evidence of attendance to attendees.

(e) Program instructors or presenters shall demonstrate qualifications and knowledge in the subject matter.

(f) Programs shall relate to the general subject area of the practice of chiropractic.

(4) Programs considered for approval under subrules (1) and (2) of this rule shall not receive credit for those portions of programs covering subject areas that include practice building, marketing, or financial advancement.

History: 2000 MR 6, Eff. May 4, 2000; 2006 MR 9, Eff. May 3, 2006.

R 338.12009

Source: 1982 AACS.

R 338.12010

Source: 1982 AACS.

R 338.12011

Source: 1982 AACS.

R 338.12012

Source: 1997 AACS.

R 338.12013

Source: 1982 AACS.

R 338.12014

Source: 1987 AACS.

R 338.12015 Patient records.

Rule 15. (1) A licensee practicing chiropractic in Michigan shall maintain a patient record for each patient, which accurately reflects the licensee's evaluation and treatment of the patient. Entries in the patient record shall be made in a timely fashion.

(2) The patient record shall contain the patient's full name, address, date of birth, sex, and other information sufficient to identify the patient; the date of every entry in the patient record; and, the name of the person making an entry if that person is

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not the licensee.

(3) The patient record shall contain sufficient information to document the chiropractic care rendered, ordered, or prescribed.

(4) A referral to another health care provider shall be reported in the patient record.

(5) A licensee shall retain a patient record for at least 7 years from the date of the last chiropractic service for which a patient record entry is required. A licensee shall retain the patient record for a minor patient until 1 year after the minor patient reaches 18 years of age, even if the licensee retains the record for more than 7 years.

History: 2006 MR 9, Eff. May 3, 2006.

DEPARTMENT OF LABOR & ECONOMIC GROWTH

DIRECTOR'S OFFICE

PREPAID FUNERAL & CEMETERY SALES

PART 1. GENERAL PROVISIONS

R 339.11 Definitions.

Rule 11. (1) As used in these rules:

(a) "Act" means 1986 PA 255, MCL 328.211 et seq., as amended, and known as the prepaid funeral and cemetery sales act.

(b) "Change in ownership" means a change of owners, partners, officers, or directors.

(c) "Department" means the department of labor and economic growth.

(d) "Upgrade" as used in MCL 328.223(4) means the addition of services or increased quality of merchandise, but does not mean a change from cremation to burial or from burial to cremation.

(e) "Statement" as used in MCL 328.218(1) means a detailed listing of the components required in that section.

(f) "Business structure" means the organizational form in which a business is held including, but not limited to, a sole proprietorship, a partnership, a limited partnership, a corporation, or a limited liability company.

(2) The terms defined in sections 3, 4 and 5 of the act have the same meanings when used in these rules.

History: 2006 MR 11, Eff. June 8, 2006.

PART 2. CONTRACTS

R 339.21 Physical Delivery and Retention.

Rule 21. (1) Physical delivery and retention is complete for a grave memorial or urn when it has been permanently inscribed with the name of the person being memorialized.

Urns and grave memorials stored until time of need shall be insured against fire and theft in an amount equal to or greater than their total replacement cost.

(3) When physical delivery and retention are complete for an article of merchandise, that portion of the contract related to the merchandise shall cease to be a prepaid contract under the act. Upon receipt of proof of physical delivery and retention, funds held by the escrow agent shall be disbursed in accordance with MCL 328.222(11). The amount disbursed shall be the *pro rata* share for that item.

History: 2006 MR 11, Eff. June 8, 2006.

R 339.22 Records.

Rule 22. (1) Copies of all prepaid contracts shall be maintained for 36 months after performance, cancellation, or revocation of the contract.

(2) Preprinted contracts shall be numbered in sequential order.

History: 2006 MR 11, Eff. June 8, 2006.

R 339.23 Required language.

Rule 23. Executed contracts shall include a paragraph immediately following the paragraph required by MCL 328.225(4) that shall state, "After the death of the contract beneficiary, the contract buyer or the contract buyer's estate may cancel the prepaid contract only where there are no remains of the deceased; where the remains of the deceased cannot be recovered; or where a prepaid contract was not utilized due to lack of knowledge by the person or persons entitled to make funeral arrangements of the existence of the prepaid contract," and shall specify the refund provisions of MCL 328.223(1) or (2), as appropriate.

History: 2006 MR 11, Eff. June 8, 2006.

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R 339.24 Commissions.

Rule 24.(1) If a commission has not been taken by a contract seller or provider pursuant to section 12 of the act, and a request is made by a person other than the contract seller or provider to transfer a prepaid contract to another licensed provider, then a commission may be taken as if the contract had been cancelled in accordance with section 13 (1) of the act.

(2) A total commission of not more than 10% of the contract price may be taken, regardless of the number of times a prepaid contract is transferred.

History: 2006 MR 11, Eff. June 8, 2006.

PART 3. STANDARDS OF OPERATION

R 339.31 Escrow of funds for cemetery merchandise.

Rule 31. A cemetery electing to escrow funds as provided in MCL 328.222(2) for cemetery merchandise sold on or after January 1, 2005, under an installment contract, shall escrow cemetery merchandise funds received at the trusting level specified for the calendar year in which funds were received, regardless of the date of the contract.

History: 2006 MR 11, Eff. June 8, 2006.

R 339.32 Annual reports requirements.

Rule 32(1) Each registrant shall submit an annual report for the period of January 1 to December 31 of the previous calendar year to the department, on forms required by the department.

(2) Each report shall be submitted in sufficient time to ensure that the director receives the report by July 15 of the year following the report year.

History: 2006 MR 11, Eff. June 8, 2006.

R 339.33 Extension requests.

Rule 33A registrant shall submit a written request for extension of the due date for annual reports so the director receives it not later than July 1 of the year following the report year. One extension may be granted for not more than 90 days, upon approval by the department.

History: 2006 MR 11, Eff. June 8, 2006.

R 339.34 Reporting Requirements.

Rule 34. A registrant shall report the following to the department:

(a) The sale of a prepaid funeral or cemetery sales business, a 10% or more change in ownership, or a change in business structure of a registrant.

(b) The death of an owner within 30 days of the death. The department shall determine if a new prepaid funeral and cemetery sales registration is required.

(c) A change of address to the department within 30 days of the change.

R 339.35 Assignment of contracts upon discontinuance of business.

Rule 35. (1) A registrant who discontinues business or whose license is suspended indefinitely, lapsed, or revoked shall do both of the following:

(a) Assign prepaid contracts to another registrant within 60 days of the event.

(b) Notify the department and the contract buyers of the assignment within 30 days of the assignment.

(2) Contracts not assigned as required by (1)(a) and (b) above shall be cancelled and the buyer issued a refund of the contract.

R 339.36 Deposit of funds for non-guaranteed or irrevocable contract.

Rule 36. A registrant receiving funds in connection with a non-guaranteed or irrevocable contract shall deposit those funds in a depository within 30 days of receipt.

R 339.37 Investment of funds.

Rule 37. Investments by an escrow agent shall be in accordance with MCL 328.222(7). Investment reports to registrants and contract buyers shall include the fair market value of the investments. Disbursement of investment funds shall be based upon their fair market value. A registrant shall not deposit funds with an escrow agent that does not act in compliance with this rule.

PART 4. RECORD KEEPING

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R 339.41 Receipts journal.

Rule 41A registrant shall maintain a chronological receipts journal that includes the following for funds received exclusively under the act:

- (a) The date the funds are received.
- (b) The amount of contract funds received.
- (c) The amount of commission funds received.
- (d) The date the contract funds are deposited.
- (e) The name of the buyer and beneficiary.
- (f) The contract number.

History: 2006 MR 11, Eff. June 8, 2006.

R 339.42 Ledger.

Rule 42 (1) A registrant shall maintain a ledger for each prepaid contract sold that includes the following:

- (a) The name and address of the buyer.
 - (b) The name and address of the beneficiaries.
 - (c) The name and address of the escrow agent.
 - (d) The date the funds are received from buyers and escrow agents/depositories.
 - (e) The amount of contract funds received from buyers and escrow agents/depositories.
 - (f) The amount of commission funds received.
 - (g) The date the contract funds are deposited.
 - (h) The contract number.
 - (i) The type of contract sold, guaranteed or non-guaranteed.
 - (j) The contract's total price exclusive of commission.
 - (k) The contract's total commission.
 - (l) The date the contract is performed, cancelled, or revoked.
 - (m) The amount of refund paid if the contract is cancelled or revoked, and the date of payment.
 - (n) The amount, date, purpose, payee, and check number of all disbursements made to buyers, beneficiaries, providers, registrants, and vendors.
- (2) Ledgers shall be maintained separately, in chronological order, or in sequential contract number order.

History: 2006 MR 11, Eff. June 8, 2006.

R 339.43 Registrant responsibility to provide annual statement.

Rule 43. Unless waived by the contract buyer, the registrant shall provide the annual statement to the contract buyer, as provided in MCL 328.222(14).

History: 2006 MR 11, Eff. June 8, 2006.

R 339.45 Other requirements for registrant.

Rule 45. A registrant shall do the following:

- (a) Obtain documentation from an escrow agent with which it contracts showing when the contract funds were deposited, as well as, when and to whom they were disbursed.
- (b) Obtain copies of notices and statements sent to the contract buyers/beneficiaries from the escrow agent.
- (c) Ensure that such documentation as described in subdivisions (a) and (b) of this rule is produced and copies are retained.
- (d) Maintain copies of any other notices and statements sent to the buyers/beneficiaries in any capacity.
- (e) Maintain all records in compliance with MCL 328.218(1).

History: 2006 MR 11, Eff. June 8, 2006.

R 339.47 Reporting period.

Rule 47.(1) The department may require a registrant to produce a list as described in MCL 328.218(1) for any period ending it considers necessary for examination, review, or audit.

(2) The registrant shall ensure that adequate provisions are included in any escrow agreement necessary to implement this rule.

History: 2006 MR 11, Eff. June 8, 2006.

DEPARTMENT OF LABOR AND ECONOMIC GROWTH

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DIRECTOR'S OFFICE

BOXING

R 339.101
Source: 2005 AACS.

R 339.102
Source: 2005 AACS.

R 339.201
Source: 2005 AACS.

R 339.202
Source: 2005 AACS.

R 339.203
Source: 2005 AACS.

R 339.204
Source: 2005 AACS.

R 339.205
Source: 2005 AACS.

R 339.206
Source: 2005 AACS.

R 339.207
Source: 2005 AACS.

R 339.209
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R 339.211
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R 339.213
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R 339.215
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R 339.217
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R 339.219
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R 339.221
Source: 2005 AACS.

R 339.223
Source: 2005 AACS.

R 339.225
Source: 2005 AACS.

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R 339.227
Source: 2005 AACCS.

R 339.229
Source: 2005 AACCS.

R 339.231
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R 339.233
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R 339.235
Source: 2005 AACCS.

R 339.237
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R 339.239
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R 339.241
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R 339.243
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R 339.245
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R 339.247
Source: 2005 AACCS.

R 339.249
Source: 2005 AACCS.

R 339.251
Source: 2005 AACCS.

R 339.253
Source: 2005 AACCS.

R 339.255
Source: 2005 AACCS.

R 339.257
Source: 2005 AACCS.

R 339.259
Source: 2005 AACCS.

R 339.261
Source: 2005 AACCS.

R 339.263
Source: 2005 AACCS.

R 339.265

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Source: 2005 AACS.

R 339.267

Source: 2005 AACS.

R 339.269

Source: 2005 AACS.

R 339.301

Source: 2005 AACS.

R 339.303

Source: 2005 AACS.

R 339.401

Source: 2005 AACS.

R 339.403

Source: 2005 AACS.

OFFICE OF COMMERCIAL SERVICES
OCCUPATIONAL BOARDS

R 339.601

Source: 1998-2000 AACS.

PART 1. LICENSE AND REGISTRATION RENEWALS

R 339.1001

Source: 1998-2000 AACS.

R 339.1002

Source: 1998-2000 AACS.

R 339.1003

Source: 1998-2000 AACS.

R 339.1004

Source: 1993 AACS.

R 339.1005

Source: 1997 AACS.

PART 7. DISCIPLINARY PROCEEDINGS

R 339.1701 Definitions.

Rule 701. (1) As used in these rules:

- (a) "Adjournment" means an adjournment, stay, continuation, or delay of a contested case hearing at any time after the issuance of a formal complaint.
- (b) "Administrative procedures act" means 1969 PA 306, MCL 24.201, et seq.
- (c) "Compliance conference" means the conference provided for in accordance with section 92 of the administrative procedures act, MCL 24.292.
- (d) "Days" means calendar days.
- (e) "Department" means the department of labor and economic growth.
- (f) "Informal conference" means the conference defined in section 504 of the occupational code, MCL 339.504, but does not mean a compliance conference provided in accordance with section 92(1) of the administrative procedures act, MCL 24.292.
- (g) "Licensing law" means a law under which the department issues a license, registration, or other authorization to practice

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an occupation or profession or render other services, and includes the occupational code.

(h) "Occupational code" means 1980 PA 299, as amended, MCL 339.101 et seq.

(i) "Party" means a person, agency, or designated agent of the department named, admitted, or properly seeking and entitled of right to be admitted, as a party in a contested case.

(j) "Presiding officer" means an administrative law judge who is employed by the state office of administrative hearings and rules (SOAHR) who is designated by SOAHR to conduct a contested case hearing.

(k) "Respondent" means a person against whom a formal complaint has been issued.

(l) "Lapsed" license or registration means a license or registration a person did not renew, as defined in section 411 of the occupational code, MCL 339.411.

(m) "Expired" license or registration means a license or registration a person failed to renew on or before the expiration date.

(n) "Revoked" license or registration means that a person's authorization or privilege to engage in an occupation or profession regulated under the occupational code is terminated and shall not be restored, reinstated, or renewed, except that an application for a new license or reinstatement of a license may be considered by the department and board as permitted under the occupational code.

(o) "Suspended" license or registration means that a person's authorization or privilege to engage in an occupation or profession regulated under the occupational code is temporarily withdrawn and shall not be restored, reinstated, or renewed until a term, condition, or requirement imposed upon the person by the department or board has been met or until a specified period of time has elapsed.

(p) "Surrendered" license or registration means a license or registration that a person voluntarily returns to the department, or a license or registration that was returned to the department before, during, or after an investigation as defined in article 5 of the occupational code, MCL 339.501 to MCL 339.559.

(2) Except as provided in subrule (1) of this rule, a term defined in the administrative procedures act or the occupational code shall have the same meaning when used in these rules.

History: 1990 MR 7, Eff. Aug. 1, 1990; 1997 MR 11, Eff. Dec. 4, 1997; 2006 MR 8, Eff. April 28, 2006.

R 339.1705 Issuance of license or change in licensure status not a bar to discipline.

Rule 705. (1) The board or department may take disciplinary action based upon conduct which occurred before the issuance of a license without regard to whether the department or a board had notice of the alleged grounds for discipline at the time the license was issued.

(2) The expiration, surrender, lapse, suspension, or revocation of a license or registration does not terminate the department's authority to proceed against a person under article 5 of the occupational code or a board's authority under articles 5 and 6 of the occupational code to impose sanctions on a person whose license has expired, lapsed, or been surrendered, suspended, or revoked for the following, whichever occurs later:

(a) For a period of 7 years after the license or registration status change occurs.

(b) For a period of 3 years after all complaints against the license or registration filed with the department have been closed.

(c) Until the licensee or registrant, qualifying officer, or manager of a licensee is in full compliance with all final orders issued to the licensee or registrant, qualifying officer or manager of a licensee.

(3) A "person" has the same meaning as defined in section 105 of the occupational code, MCL 339.105(5).

History: 1990 MR 7, Eff. Aug. 1, 1990; 2006 MR 8, Eff. April. 28, 2006.

R 339.1706 Reporting changes.

Rule 706 (1) A licensee or registrant, or qualifying officer, or manager of a licensee shall report to the department a change of name or address within 30 days after the change occurs.

(2) If a license or registration has expired, is surrendered, lapsed, suspended, or revoked, then the licensee or registrant, qualifying officer, or manager of a licensee shall report a change of name or address to the department within 30 days until 1 of the following, whichever occurs later:

(a) For a period of 7 years after the license or registration status change occurs.

(b) For a period of 3 years after all complaints against the license or registration filed with the department have been closed.

(c) Until the licensee or registrant, qualifying officer, or manager of a licensee is in full compliance with all final orders issued to the licensee or registrant, qualifying officer, or manager of a licensee.

History: 2006 MR 8, Eff. April 28, 2006.

R 339.1707

Source: 1997 AACs.

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R 339.1709
Source: 1990 AACS.

R 339.1711
Source: 1997 AACS.

R 339.1713
Source: 1990 AACS.

R 339.1715
Source: 1997 AACS.

R 339.1721
Source: 1990 AACS.

R 339.1725
Source: 1997 AACS.

R 339.1726
Source: 1990 AACS.

R 339.1727
Source: 1997 AACS.

R 339.1728
Source: 1997 AACS.

R 339.1731
Source: 1990 AACS.

R 339.1741
Source: 1997 AACS.

R 339.1743
Source: 1997 AACS.

R 339.1745
Source: 1997 AACS.

R 339.1746
Source: 1997 AACS.

R 339.1747
Source: 1990 AACS.

R 339.1751
Source: 1990 AACS.

R 339.1753
Source: 1997 AACS.

R 339.1755
Source: 1990 AACS.

R 339.1757
Source: 1990 AACS.

R 339.1759
Source: 1997 AACS.

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R 339.1761
Source: 1990 AACS.

R 339.1763
Source: 1990 AACS.

R 339.1765
Source: 1997 AACS.

R 339.1767
Source: 1990 AACS.

R 339.1771
Source: 1997 AACS.

ATHLETICS

PART 1. GENERAL PROVISIONS

R 339.3101
Source: 2005 AACS.

R 339.3102
Source: 2005 AACS.

R 339.3201
Source: 2005 AACS.

R 339.3202
Source: 2005 AACS.

R 339.3203
Source: 2005 AACS.

R 339.3204
Source: 2005 AACS.

R 339.3205
Source: 2005 AACS.

R 339.3206
Source: 2005 AACS.

R 339.3207
Source: 2005 AACS.

R 339.3207a
Source: 2005 AACS.

R 339.3208
Source: 2005 AACS.

R 339.3209
Source: 2005 AACS.

R 339.3210

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Source: 2005 AACS.

R 339.3210a

Source: 2005 AACS.

R 339.3211

Source: 2005 AACS.

R 339.3212

Source: 2005 AACS.

R 339.3213

Source: 2005 AACS.

R 339.3214

Source: 2005 AACS.

R 339.3215

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R 339.3216

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R 339.3217

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R 339.3218

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R 339.3219

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R 339.3229
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R 339.3230
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R 339.3233
Source: 2005 AACS.

R 339.3234
Source: 2005 AACS.

R 339.3235
Source: 2005 AACS.

R 339.3236
Source: 2005 AACS.

R 339.3199
Source: 1985 AACS.

PART 2. PROFESSIONAL BOXING

R 339.3201
Source: 1995 AACS.

R 339.3202
Source: 1995 AACS.

R 339.3203
Source: 1995 AACS.

R 339.3204
Source: 1995 AACS.

R 339.3205
Source: 1995 AACS.

R 339.3206
Source: 1995 AACS.

R 339.3207
Source: 1995 AACS.

R 339.3207a
Source: 1995 AACS.

R 339.3208
Source: 1995 AACS.

R 339.3209
Source: 1995 AACS.

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R 339.3210
Source: 1995 AACS.

R 339.3210a
Source: 1995 AACS.

R 339.3211
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R 339.3212
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R 339.3229
Source: 1995 AACS.

R 339.3230
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R 339.3231
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R 339.3233
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R 339.3234
Source: 1985 AACS.

R 339.3235
Source: 1995 AACS.

R 339.3236
Source: 1995 AACS.

DIRECTOR'S OFFICE
COLLECTION AGENCIES

R 339.4001
Source: 1997 AACS.

R 339.4003
Source: 1997 AACS.

R 339.4005
Source: 1997 AACS.

R 339.4007
Source: 1997 AACS.

R 339.4009
Source: 1997 AACS.

R 339.4011
Source: 1997 AACS.

PERSONNEL AGENCIES
PART 1. GENERAL PROVISIONS

R 339.5001
Source: 1996 AACS.

R 339.5005
Source: 1996 AACS.

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R 339.5009
Source: 1996 AACS.

PART 2. LICENSING

R 339.5021
Source: 1996 AACS.

R 339.5023
Source: 1996 AACS.

PART 3. STANDARDS OF CONDUCT

R 339.5031
Source: 1996 AACS.

R 339.5033
Source: 1996 AACS.

R 339.5035
Source: 1996 AACS.

R 339.5037
Source: 1996 AACS.

R 339.5039
Source: 1996 AACS.

BARBERS

PART 1. GENERAL PROVISIONS

R 339.6001
Source: 1991 AACS.

R 339.6003
Source: 1991 AACS.

R 339.6019
Source: 1991 AACS.

PART 2. LICENSES

R 339.6021
Source: 1998-2000 AACS.

PART 3. SANITATION

R 339.6031
Source: 1991 AACS.

R 339.6033
Source: 1991 AACS.

R 339.6035
Source: 1991 AACS.

R 339.6037

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Source: 1991 AACCS.

PART 4. BARBER COLLEGES

R 339.6041

Source: 1994 AACCS.

R 339.6045 Student conduct; education requirements.

Rule 45. (1) A barber college shall not permit a student to work on a public patron in a barber college until he or she presents a student license issued to the student. A student shall comply strictly with the rules governing barbers and barbershops in this state.

(2) For the purpose of meeting the equivalent tenth grade education requirement as used in the act, the department shall accept a score of 39 or higher, before January, 2002, or, for tests administered in January, 2002 or later, 390 or higher using the general educational development (GED) test, or the ability to benefit (ATB) basic skills tests approved by the U.S. department of education as constituting prima facie evidence of equivalence to a tenth grade education.

(3) For the purpose of meeting the requirements of graduation from an accredited high school as used in the act, the department shall accept successful completion of the general educational development (GED) test or the ability to benefit (ATB) scholastic level exam as constituting prima facie evidence of demonstrating equivalence to a high school diploma.

(4) Information about the general educational development certification (GED) test is available from the Michigan Department of Labor and Economic Growth, GED Testing, Victor Office Center-3RD FLOOR, 201 N. Washington Square, Lansing MI 48913, telephone: 517/373-1692. Information about the ability to benefit basic skills tests (WBST) is available from Wonderlic, Inc., 1795 N. Butterfield Road, Libertyville IL 60048-1238. Telephone: toll free 877/568-5791 or local: 847/247-2530. Internet address: www.wonderlic.com.

(5) The department may renew a student license on behalf of the board for more than 1 additional year, upon student submission of reasons satisfactory to the department.

History:1991 MR 2, Eff. Mar. 15, 1991; 2003 MR 17, Eff. Sept. 19, 2003; 2006 MR 4, Eff. Feb. 22, 2006.

R 339.6047

Source: 1991 AACCS.

R 339.6049

Source: 1991 AACCS.

R 339.6051 School Examinations.

Rule 51 (1) A barber college shall administer final theory and practical examinations on all curriculum subjects to students, and shall certify to the department, or its designees, those students who pass the examinations.

History:2006 MR 4, Eff. Feb. 22, 2006.

NURSING HOME ADMINISTRATORS

PART 1. GENERAL PROVISIONS

R 339.14001

Source: 1992 AACCS.

R 339.14003

Source: 1998-2000 AACCS.

R 339.14005

Source: 1998-2000 AACCS.

R 339.14007

Source: 1998-2000 AACCS.

R 339.14009

Source: 1992 AACCS.

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R 339.14011

Source: 1998-2000 AACS.

R 339.14013

Source: 1998-2000 AACS.

R 339.14015

Source: 1992 AACS.

R 339.14019

Source: 1992 AACS.

PART 2. CONTINUING EDUCATION

R 339.14021

Source: 1998-2000 AACS.

R 339.14023

Source: 1992 AACS.

R 339.14025

Source: 1998-2000 AACS.

R 339.14027

Source: 1998-2000 AACS.

R 339.14029

Source: 1992 AACS.

R 339.14031

Source: 1992 AACS.

R 339.14033

Source: 1992 AACS.

R 339.14035

Source: 1995 AACS.

ARCHITECTS

PART 1. GENERAL PROVISIONS

R 339.15101 Definitions.

Rule 101. (1) As used in these rules:

(a) "Act" means 1980 PA 299, MCL 339.101.

(b) "Authorized representative" means the chairperson, vice chairperson, or such other member of the board or employee of the department as the board may formally designate.

(c) "Board" means the board of architects.

(d) "Department" means the department of labor and economic growth.

(2) Terms defined in the act have the same meanings when used in these rules.

History: 1985 MR 8, Eff. Sept. 12, 1985; 2006 MR 6, Eff. Mar. 24, 2006.

R 339.15102

Source: 1998-2000 AACS.

R 339.15103 Board meetings.

Rule 103. Board meetings are held in accordance with 1976 PA 267, MCL 15.261 et seq. and are open to the public.

History: 1985 MR 8, Eff. Sept. 12, 1985; Rescinded 1998 MR 5, Eff. Jun. 11, 1998; 2006 MR 6, Eff. Mar. 24, 2006.

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R 339.15104

Source: 2001 AACCS.

R 339.15105

Source: 1985 AACCS.

PART 2. LICENSING CRITERIA

R 339.15201 Adoption by reference; experience credit; professional experience practice requirement; examination; transcripts.

Rule 201. (1) The board adopts the "NAAB - 2004 conditions for accreditation" and the "2005 procedures" of the national architectural accrediting board as the board's determinant of the acceptability of a first professional degree in architecture. The "NAAB-2004 conditions for accreditation" and the "2005 procedures" are available for inspection from the bureau of commercial services at the physical location of 2501 Woodlake Circle, Okemos MI 48864, and may be purchased at a cost of \$3.50, at the time of the adoption of these rules, from the national architectural accrediting board, 1735 New York Avenue, NW, Washington DC 20006, telephone: 202-783.2007, e-mail:info@naab.org, or on the world-wide web at www.naab.org.
History: 1985 MR 8, Eff. Sept. 12, 1985; 2006 MR 6, Eff. Mar. 24, 2006.

R 339.15202 Credit for professional experience.

Rule 202. (1) Submission of a certificate of completion of the intern development program of the national council of architectural registration boards shall be accepted as evidence of completion of architectural experience and internship acceptable to the board. The board adopts by reference the standards set forth in the publication, "Intern development program (IDP) guidelines," 2005-2006 edition published by the national council of architectural registration boards (NCARB), which is available for inspection from the bureau of commercial services, physical location at 2501 Woodlake Circle, Okemos Michigan. Copies of "Intern development program (IDP) guidelines " may be obtained from AIA-NCARB IDP Headquarters, 1801 K Street NW, Suite 1100-K, Washington DC 20006, telephone: 202-783-6500, e-mail:customerservice@ncarb.org or by visiting the NCARB website at www.ncarb.org, at no charge at the time of promulgation of these rules.

(2) The certificate of completion of an approved internship program shall also be evidence of completion of the requirement that an applicant submit 5 references as required by section 2006(1) of the act.

(3) Effective January 1, 1992, only experience gained through completion of an intern development program approved by the board shall be considered to qualify an applicant to take the professional portion of the examination.

(4) Five years of verifiable practice as a licensee in another jurisdiction shall satisfy the intern development program requirements for a reciprocal license.

History: 1985 MR 8, Eff. Sept. 12, 1985; 1989 MR 2, Eff. Mar. 7, 1989; 2006 MR 6, Eff. Mar. 24, 2006.

R 339.15203

Source: 1998-2000 AACCS.

R 339.15204 Examination requirement.

Rule 204. The board adopts the NCARB architectural registration examination (ARE) as the acceptable examination for licensure, as required by MCL 339. 2004 (1)(b).

History: 2006 MR 6, Eff. Mar. 24, 2006.

PART 3. LICENSURE, RECIPROCITY, AND RENEWAL

R 339.15301

Source: 1985 AACCS.

R 339.15302

Source: 1985 AACCS.

PART 4. STANDARDS OF PRACTICE AND PROFESSIONAL CONDUCT

R 339.15401

Source: 1985 AACCS.

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R 339.15402
Source: 1985 AACS.

R 339.15403
Source: 1985 AACS.

PROFESSIONAL ENGINEERS

PART 1. GENERAL PROVISIONS

R 339.16001
Source: 1985 AACS.

R 339.16002
Source: 1998-2000 AACS.

R 339.16003
Source: 1985 AACS.

R 339.16004
Source: 2001 AACS.

R 339.16006
Source: 1985 AACS.

PART 2. LICENSURE

R 339.16021
Source: 1985 AACS.

R 339.16022
Source: 1985 AACS.

R 339.16023
Source: 1998-2000 AACS.

R 339.16024
Source: 1985 AACS.

R 339.16025
Source: 1985 AACS.

PART 3. STANDARDS OF PRACTICE AND PROFESSIONAL CONDUCT

R 339.16031
Source: 1985 AACS.

R 339.16032
Source: 1985 AACS.

R 339.16033
Source: 1985 AACS.

R 339.16034
Source: 1985 AACS.

PROFESSIONAL SURVEYORS

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PART 1. GENERAL PROVISIONS

R 339.17101
Source: 1995 AACS.

R 339.17102
Source: 1997 AACS.

R 339.17103
Source: 1985 AACS.

R 339.17104
Source: 2001 AACS.

R 339.17105
Source: 1985 AACS.

PART 2. EXAMINATIONS

R 339.17201
Source: 1985 AACS.

R 339.17202
Source: 1995 AACS.

R 339.17203
Source: 1993 AACS.

PART 3. LICENSURE, RECIPROCITY, AND RENEWAL

R 339.17301
Source: 1995 AACS.

R 339.17302
Source: 1995 AACS.

PART 4. STANDARDS OF PRACTICE AND PROFESSIONAL CONDUCT

R 339.17401
Source: 1995 AACS.

R 339.17402
Source: 1985 AACS.

R 339.17403
Source: 1995 AACS.

R 339.17404
Source: 1995 AACS.

FORESTERS

PART 1. GENERAL PROVISIONS

R 339.18001
Source: 1984 AACS.

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R 339.18005
Source: 1998-2000 AACS.

R 339.18007
Source: 1984 AACS.

PART 2. REGISTRATION

R 339.18021
Source: 1998-2000 AACS.

R 339.18023
Source: 1984 AACS.

R 339.18025
Source: 1984 AACS.

R 339.18027
Source: 1984 AACS.

R 339.18029
Source: 1998-2000 AACS.

PART 3. STANDARDS OF CONDUCT

R 339.18031
Source: 1984 AACS.

R 339.18035
Source: 1984 AACS.

MORTUARY SCIENCE

PART 1. GENERAL PROVISIONS

R 339.18901
Source: 2001 AACS.

R 339.18905
Source: 2001 AACS.

R 339.18919
Source: 1991 AACS.

PART 2. LICENSING

R 339.18921
Source: 2001 AACS.

R 339.18923
Source: 1998-2000 AACS.

R 339.18925
Source: 1991 AACS.

R 339.18927
Source: 2001 AACS.

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R 339.18929
Source: 2001 AACS.

PART 3. STANDARDS OF OPERATIONS

R 339.18930
Source: 2001 AACS.

R 339.18931
Source: 1991 AACS.

R 339.18933
Source: 1991 AACS.

R 339.18937
Source: 1991 AACS.

PART 4. STANDARDS OF CONDUCT

R 339.18941
Source: 1991 AACS.

R 339.18943
Source: 1991 AACS.

R 339.18945
Source: 1991 AACS.

R 339.18947
Source: 1991 AACS.

LANDSCAPE ARCHITECTS

PART 1. GENERAL PROVISIONS

R 339.19001
Source: 1983 AACS.

R 339.19005
Source: 1998-2000 AACS.

R 339.19007
Source: 1983 AACS.

R 339.19020
Source: 1983 AACS.

PART 2. REGISTRATION

R 339.19021
Source: 1998-2000 AACS.

R 339.19023
Source: 1983 AACS.

R 339.19025

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Source: 1991 AACS.

R 339.19027

Source: 1983 AACS.

PART 3. EXAMINATIONS

R 339.19031

Source: 1998-2000 AACS.

R 339.19033

Source: 1998-2000 AACS.

R 339.19035

Source: 1998-2000 AACS.

R 339.19037

Source: 1998-2000 AACS.

R 339.19039

Source: 1998-2000 AACS.

PART 4. STANDARDS OF CONDUCT

R 339.19041

Source: 1983 AACS.

R 339.19045

Source: 1983 AACS.

R 339.19049

Source: 1983 AACS.

PROFESSIONAL COMMUNITY PLANNERS

PART 1. GENERAL PROVISIONS

R 339.20001

Source: 1996 AACS.

R 339.20002

Source: 1996 AACS.

R 339.20009

Source: 1996 AACS.

PART 2. REGISTRATION

R 339.20011

Source: 1996 AACS.

R 339.20013

Source: 1996 AACS.

R 339.20015

Source: 1996 AACS.

R 339.20017

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Source: 1996 AACS.

R 339.20018

Source: 1996 AACS.

R 339.20019

Source: 1996 AACS.

PART 3. STANDARDS OF CONDUCT

R 339.20031

Source: 1996 AACS.

R 339.20033

Source: 1996 AACS.

R 339.20035

Source: 1996 AACS.

R 339.20037

Source: 1996 AACS.

REAL ESTATE BROKERS AND SALESPERSONS

PART 1. GENERAL PROVISIONS

R 339.22101

Source: 2002 AACS.

R 339.22103

Source: 2002 AACS.

R 339.22199

Source: 1991 AACS.

PART 2. LICENSING

R 339.22201

Source: 2002 AACS.

R 339.22203

Source: 2002 AACS.

R 339.22205

Source: 2002 AACS.

R 339.22207

Source: 2002 AACS.

R 339.22209

Source: 2002 AACS.

R 339.22211

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R 339.22213

Source: 2002 AACS.

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R 339.22215
Source: 2002 AACs.

PART 3. PRACTICE AND CONDUCT

R 339.22301
Source: 2002 AACs.

R 339.22305
Source: 2002 AACs.

R 339.22307
Source: 2002 AACs.

R 339.22309
Source: 2002 AACs.

R 339.22310
Source: 2002 AACs.

R 339.22311
Source: 2002 AACs.

R 339.22313
Source: 2002 AACs.

R 339.22315
Source: 2002 AACs.

R 339.22317
Source: 2002 AACs.

R 339.22319
Source: 1991 AACs.

R 339.22321
Source: 2002 AACs.

R 339.22323
Source: 2002 AACs.

R 339.22325
Source: 2002 AACs.

R 339.22327
Source: 1991 AACs.

R 339.22329
Source: 1991 AACs.

R 339.22333
Source: 2002 AACs.

R 339.22335
Source: 1997 AACs.

R 339.22337
Source: 2002 AACs.

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R 339.22339
Source: 2002 AACS.

PART 4. ENFORCEMENT

R 339.22401
Source: 2002 AACS.

R 339.22403
Source: 1997 AACS.

R 339.22405
Source: 1991 AACS.

PART 5. OUT-OF-STATE LAND SALES

R 339.22501
Source: 1991 AACS.

R 339.22503
Source: 1991 AACS.

R 339.22505
Source: 1991 AACS.

R 339.22507
Source: 1991 AACS.

R 339.22509
Source: 1991 AACS.

R 339.22511
Source: 1991 AACS.

R 339.22513
Source: 1991 AACS.

R 339.22515
Source: 2002 AACS.

R 339.22517
Source: 1991 AACS.

R 339.22519
Source: 2002 AACS.

R 339.22521
Source: 1991 AACS.

R 339.22523
Source: 2002 AACS.

R 339.22525
Source: 2002 AACS.

R 339.22527
Source: 2002 AACS.

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R 339.22529
Source: 1991 AACS.

PART 6. REAL ESTATE EDUCATION

SUBPART 1. GENERAL PROVISIONS

R 339.22601
Source: 2002 AACS.

R 339.22602
Source: 2002 AACS.

R 339.22603
Source: 1991 AACS.

R 339.22604
Source: 2002 AACS.

R 339.22605
Source: 2002 AACS.

R 339.22607
Source: 1991 AACS.

R 339.22609
Source: 2002 AACS.

R 339.22611
Source: 1991 AACS.

R 339.22613
Source: 2002 AACS.

R 339.22615
Source: 1991 AACS.

R 339.22617
Source: 1991 AACS.

SUBPART 2. PRELICENSURE COURSES

R 339.22631
Source: 2002 AACS.

R 339.22633
Source: 2002 AACS.

R 339.22635
Source: 2002 AACS.

R 339.22637
Source: 2002 AACS.

R 339.22639
Source: 1991 AACS.

R 339.22641

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Source: 1991 AACS.

R 339.22643

Source: 1991 AACS.

R 339.22645

Source: 1991 AACS.

R 339.22647

Source: 1991 AACS.

SUBPART 3. CONTINUING EDUCATION COURSES

R 339.22651

Source: 2002 AACS.

339.22653

Source: 1997 AACS.

R 339.22654

Source: 2002 AACS.

R 339.22655

Source: 2002 AACS.

R 339.22657

Source: 1991 AACS.

R 339.22659

Source: 2002 AACS.

R 339.22661

Source: 2002 AACS.

R 339.22663

Source: 2002 AACS.

R 339.22664

Source: 2002 AACS.

R 339.22665

Source: 1997 AACS.

R 339.22667

Source: 1997 AACS.

REAL ESTATE APPRAISERS

PART 1. GENERAL PROVISIONS

R 339.23101 Definitions.

Rule 101. (1) As used in these rules:

(a) "Act" means 1980 PA 299, MCL 339.101 et seq., and known as the occupational code.

(b) "Board" means the board of real estate appraisers.

(c) "Licensee" means an individual who is licensed under article 26 of the act, including a limited real estate appraiser, a state-licensed real estate appraiser, a certified residential real estate appraiser, or a certified general real estate appraiser.

(d) "Market analysis as performed by a real estate licensee" means the activity defined in section 2601(a)(i) and (ii) of the act,

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and means analysis solely for the purpose of establishing potential sale, purchase, or listing price of real property or the rental rate of real property and is not for the purpose of evaluating a property for mortgage lenders in the primary or secondary mortgage market.

(e) "Real estate consulting", as used in sections 2613, 2614, and 2615 of the act, is that function or functions described in standards 4 and 5 of the uniform standards of the uniform standards of professional appraisal practice.

(f) "Transaction value" means any of the following:

(i) For loans or other extensions of credit, the amount of the loan or the extension of credit.

(ii) For sales, leases, purchases, and investments, or in exchanges of real property, the market value of the real property interest involved.

(iii) For the pooling of loans or interests in real property for resale or purchase, the amount of the loan or market value of the real property calculated with respect to each such loan or interest in real property.

(g) "Uniform standards of professional appraisal practice" or "USPAP" means the uniform standards of professional appraisal practice, published by the appraisal foundation, effective June 1, 2006. Copies of the edition are available at a cost at the time of adoption of these rules of \$30.00 plus \$8.50 for shipping from the Appraisal Foundation, 1155 15th Street NW, Suite 1111, Washington DC, 20005. Mail Orders: P.O. Box 381, Annapolis Junction, MD 20101-0381, phone toll-free 800/805-7857 or 240/864-0100. Copies of the current USPAP and previous editions may be downloaded without charge from the following Internet address: www.appraisalfoundation.org. The current USPAP and previous editions may be reviewed or purchased from the department of labor and economic growth by mailing to the Bureau of Commercial Services, 2501 Woodlake Circle, Okemos Michigan 48864, mailing address, P.O. Box 30018, Lansing MI 48909, phone: 517/241-9201, at a cost as of the time of adoption of these rules of \$50.00 plus \$11.00 shipping and handling costs.

(2) Terms defined in articles 1 to 6 and 26 of the act have the same meanings when used in these rules.

History: 1996 MR 6, Eff. June 16, 1996; 2002 MR 9, Eff. May 21, 2002; 2003 MR 5, Eff. Mar. 13, 2003; 2003 MR 24, Eff. Dec. 31, 2003; 2004MR24, Eff. Dec. 24, 2004; 2006 MR 11, Eff. June 2, 2006.

Editor's Note: An obvious error in R 339.23101(1)(g) was corrected at the request of the promulgating agency, pursuant to Section 56 of 1969 PA 306, as amended by 2000 PA 262, MCL 24.256. The rule containing the error was published in Michigan Register, 2006 MR 11. The memorandum requesting the correction was published in Michigan Register, 2006 MR 12.

R 339.23103

Source: 2002 AACs.

PART 2. LICENSING

R 339.23201 Acceptable appraisal experience generally.

Rule 201. (1) Credit for appraisal experience shall be based on the actual performance of appraisals. The department shall not grant experience credit to an applicant solely on the basis of total hours of employment in an appraisal firm or other entity. The actual performance of appraisals includes time spent in such professional activities as personally inspecting real property, conducting research and developing materials supporting the appraisal, preparing the content of appraisal reports, and presenting the appraisal to the client. It does not include time spent in the solicitation of business, negotiation and development of client agreements, clerical tasks, or business accounting and collections, even though such tasks may be appropriately billed to a client as a necessary part of performing the appraisal.

(2) Credit shall not be given for performing more than 40 hours per week of professional experience unless specific experience, which is verified by a supervisor, can be provided to demonstrate that an individual worked more hours in that week. However, experience in excess of 40 hours a week that is obtained before January 1, 1992, may be verified by a supervisor's affidavit.

(3) Hours credited per appraisal shall be credited based upon the number of hours spent on each assignment, not to exceed the number of hours in the following table:- Requests for exceptions shall be approved or denied by the department.

PROPERTY TYPES	MAX. ALLOWABLE HOURS
SINGLE FAMILY RESIDENTIAL	8
RESIDENTIAL MULTI FAMILY (2 to 4 UNITS)	20

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RESIDENTIAL MULTI FAMILY (5 to 12 UNITS)	36
RESIDENTIAL MULTI FAMILY (13 OR MORE UNITS)	40
RESIDENTIAL LOT	6
SUBDIVISIONS	40
RURAL RESIDENTIAL LAND (IMPROVED 20 ACRES OR LESS)	16
RURAL RESIDENTIAL LAND (VACANT 20 ACRES OR LESS)	12
AGRICULTURAL FARM OR FOREST LAND	40
INDUSTRIAL (INDUSTRIAL PARK, BUSINESS CAMPUS, WAREHOUSING, MANUFACTURING PLANT, ETC.)	40
INDUSTRIAL PARK OR BUSINESS CAMPUS LAND (VACANT)	24
MULTI FAMILY LAND (VACANT)	24
COMMERCIAL PROPERTIES: SINGLE TENANT MULTI TENANT (IMPROVED OFFICE BLDG, RETAIL STORE, RESTAURANT, SERVICE STATION, BANK, DAY CARE CENTER, NURSING HOME, ETC.)	40 80
COMMERCIAL LAND (VACANT)	24

(4) Qualifying experience in performing real estate appraisals on or after January 1, 1992, shall be obtained while the individual is licensed as a limited real estate appraiser, certified residential real estate appraiser, or state licensed real estate appraiser or is properly exempt from licensing.

(5) A limited real estate appraiser shall be subject to direct supervision by a supervising appraiser who shall be state licensed or certified in good standing. The supervising appraiser shall be responsible for the training and direct supervision of the limited real estate appraiser by accepting responsibility for the appraisal report by signing and certifying that the report is in compliance with the uniform standards of professional appraisal practice by doing both of the following:

(a) Reviewing the appraiser trainee appraisal report or reports.

(b) Personally inspecting each appraised property with the limited real estate appraiser until the supervising appraiser determines the limited appraiser is competent in accordance with the competency provision of the uniform standards of professional appraisal practice (USPAP) for the property type. Separate logs shall be maintained for each supervising appraiser, and each log shall contain the signature, the license or certification number, and the level of licensure of the supervising appraiser.

History: 1996 MR 6, Eff. June 16, 1996; 2002 MR 9, Eff. May 21, 2002; 2006 MR 11, Eff. June 2, 2006.

R 339.23203

Source: 2002 AACS.

R 339.23205

Source: 1996 AACS.

R 339.23207

Source: 2002 AACS.

PART 3. APPRAISER EDUCATION

GENERAL PROVISIONS

R 339.23301

Source: 2002 AACs.

R 339.23303

Source: 2002 AACs.

R 339.23305

Source: 1996 AACs.

R 339.23307 Conduct of courses; changes in courses.

Rule 307. (1) A course sponsor shall comply with all of the following requirements:

- (a) A course shall not be represented to licensees or to the public as meeting the requirements of the act and these rules until it has been approved by the department.
 - (b) Solicitation of organizational membership, employment, or business-related products and services is prohibited during qualifying course classroom hours.
 - (c) A sponsor shall appoint an individual as coordinator for the sponsor's courses. The coordinator shall be responsible for supervising the program of courses and assuring compliance with the code and these rules. The coordinator need not be a licensee.
 - (d) An instructor who meets the requirements of R 339.23309 (3) and (4) shall teach the course.
 - (e) Each student shall be provided with a written syllabus that contains, at a minimum, all of the following information:
 - (i) The course title.
 - (ii) The times and dates of the course offering.
 - (iii) The name, business address, and telephone number of the course coordinator and the name of the instructor.
 - (iv) A detailed outline of the subject matter to be covered and the estimated time to be devoted to each subject.
 - (f) A course shall not be credited for more than 10 classroom hours of instruction in 1 calendar day. Calculations of classroom hours for a course shall not include any of the following:
 - (i) Meals.
 - (ii) Breaks.
 - (iii) Registration.
 - (iv) Required reading.
 - (v) Outside assignments.
 - (g) Each course shall reflect the most current version of state and federal laws and regulations.
 - (h) A sponsor shall permit the department to review a course at any time or to inspect the records of a course sponsor during normal business hours.
 - (i) A sponsor whose programs are transferred to another entity shall arrange for student records to be maintained permanently by the successor entity. The successor entity shall assure that course completion information is available to students who need to verify their education.
- (2) The department shall accept or reject a change in, or addition to, the information provided to the department on an original application. The department may determine that a proposed change cannot be made without the submission of additional supporting documentation or that the extent or number of changes requested require the sponsor to complete a new application for approval.
- (3) The department may request a sponsor to provide any additional supporting documentation that is necessary for the department to approve the course.
- (4) Department approved courses shall expire 3 years from the date of the course approval, at which time the course approval shall be subject to renewal. A sponsor shall notify the department of its intent to renew or discontinue previously approved course or courses by satisfactorily completing and submitting a course renewal form provided by the department. Course renewal forms shall be received by the department at least 60 days before the expiration date. If a satisfactorily completed renewal form is not received by the department by the expiration date, the course shall cease to be departmentally approved beyond the expiration date. Course renewal forms are not valid and shall not be accepted by the department after the expiration date. Sponsors requesting approval for course renewal after the expiration date shall complete and submit an application for original course approval.
- (5) If a sponsor desires to change a course's content/curriculum and/or hours of credit, the sponsor shall reapply for

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departmental approval of the changes to the course by completing an application for course approval, obtained from the department. The department shall notify the sponsor whether the proposed course change is approved or not. The sponsor shall not offer the course with the proposed changes without departmental approval.

History: 1996 MR 6, Eff. June 26, 1996; 2002 MR 9, Eff. May 21, 2002; 2006 MR 11, Eff. June 2, 2006.

R 339.23309

Source: 2004 AACs.

R 339.23311 Courses not acceptable for prelicensure or continuing education.

Rule 311. The department shall not approve a prelicensure or continuing education course, nor shall it grant credit to a licensee under section 2627(5) of the act for any of the following:

- (a) Courses that do not provide student access to an instructor during the course.
- (b) Courses that deal with employment-related topics such as explanations of rights, benefits, and responsibilities; organizational structure; and on-the-job methods, processes, or procedures.
- (c) Membership in or service in an office, or on a committee of a professional, occupational, trade, or industry society or organization.
- (d) Conferences, delegate assemblies, or similar meetings of professional organizations for policy-making purposes.
- (e) Meetings and conventions of societies and associations; however, educational activities which are provided independently by an approved course sponsor and which are held concurrently with such meetings may be given credit.
- (f) Attendance at lecture series, cultural performances, entertainment, or recreational meetings or activities or participation in travel groups, unless these activities are an integral part of a course that is approved pursuant to these rules.
- (g) On-the-job training, apprenticeships, and other work experiences.
- (h) Courses in sales promotion, motivation, marketing, psychology, time management, or mechanical office or business skills, including typing, speed-reading, or the use of office machines or equipment other than calculators or computers.

History: 1996 MR 6, Eff. June 26, 1996; 2002 MR 9, Eff. May 21, 2002; 2006 MR 11, Eff. June 2, 2006.

R 339.23313

Source: 1996 AACs.

R 339.23315

Source: 1996 AACs.

PRELICENSURE EDUCATION

R 339.23317 Prelicensure education; application for course approval; forms; requirements; unacceptable courses.

Rule 317. (1) An application for approval of a prelicensure real estate appraiser education course shall be made on forms provided by the department. The department shall accept or reject the application. (2) The application shall include all of the following information:

- (a) The course title.
- (b) The number of classroom hours to be given for completion of the course. As provided in section 2617(3) of the act, a course shall be not less than 15 classroom hours in length.
- (c) The name, business address, and telephone number of the sponsor.
- (d) The name, business address, and telephone number of the course coordinator.
- (e) The name, license number, and qualifications of instructors.
- (f) A detailed outline of the subject matter to be covered and the number of classroom hours to be devoted to each topic, as it will appear in the student syllabus.
- (g) A summary of the required topics for prelicensure that are covered in the course completed on the subject matter matrix provided by the department.
- (h) The methodology for verifying and monitoring attendance, including the class makeup policy. A sponsor shall have a written makeup policy for students who are absent from all or a part of regularly scheduled class sessions. If there are no opportunities to make up missed sessions, that policy shall be so stated.
- (i) The standards a student must meet to complete the course, including assignments, projects, examinations, and the passing score on the examination that is required pursuant to the provisions of section 2617(3) of the act to be given at the completion of the course for a student to demonstrate mastery of the material covered.
- (j) Proof that the sponsor is an entity that may offer prelicensure real estate appraisal education courses in accordance with the provisions of section 2617(2) of the act.

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History: 1996 MR 6, Eff. June 26, 1996; 2002 MR 9, Eff. May 21, 2002; 2006 MR 11, Eff. June 2, 2006.

R 339.23319

Source: 2002 AACS.

CONTINUING EDUCATION

R 339.23320 Prelicensure requirements for uniform standards of professional appraisal practice (USPAP).

Rule 320. (1) Applicants for licensure shall successfully complete the 15-hour national USPAP course required by the appraiser qualification board (AQB). Equivalency shall be determined through the AQB course approval program or by an alternate method established by the AQB.

(2) USPAP qualifying education credit shall only be awarded when the class is instructed by the following:

- (a) An AQB certified instructor or instructors.
- (b) At least 1 residential or general state certified appraiser.

History: 2006 MR 11, Eff. June 2, 2006.

R 339.23321 Continuing education; application for course approval; forms; requirements.

Rule 321. (1) An application for approval of a continuing education course shall be made on forms provided by the department. The department shall accept or reject the application.

(2) The application shall include all of the following information:

- (a) The course title.
- (b) The number of classroom hours to be given for completion of the course. As provided in section 2617 of the act, a course shall be not less than 2 classroom hours in length.
- (c) The name, business address, and telephone number of the sponsor.
- (d) The name, business address, and telephone number of the course coordinator.
- (e) The name, license number, and qualifications of instructors.
- (f) A detailed outline of the subject matter to be covered and the number of classroom hours to be devoted to each topic, as it will appear in the student syllabus.
- (g) The methodology for verifying and monitoring attendance. The course sponsor shall be responsible for determining the number of hours, if any, that will be granted to a licensee who does not attend all planned classroom hours. A licensee shall not receive credit for attending the same course more than 1 time during the same license renewal cycle.
- (h) The standards a student must meet to complete the course, including assignments, projects, or examinations. The sponsor at its discretion may give course examinations, but examinations are not required by the act or these rules for continuing education courses.
- (i) Proof that the sponsor is an entity that may offer continuing education courses in accordance with the provisions of section 2617(2) of the act.
- (j) Information to demonstrate that the course meets the requirements of section 2627(3) and (4) of the act and is designed to improve and maintain the capability of a licensee to perform activities regulated by the act.

History: 1996 MR 6, Eff. June 26, 1996; 2002 MR 9, Eff. May 21, 2002; 2006 MR 11, Eff. June 2, 2006.

R 339.23323

Source: 2002 AACS.

R 339.23325

Source: 1996 AACS.

R 339.23326 Continuing education requirements for licensees.

Rule 326.(1) Appraisers shall successfully complete the 7-hour national USPAP update course, or its equivalent, at least every 2 years. Equivalency shall be determined through the AQB course approval program or by an alternate method established by the AQB.

(2) USPAP qualifying education credit shall only be awarded when the class is instructed by the following:

- (a) An AQB certified instructor or instructors.
- (b) At least 1 residential or general state certified appraiser.
- (3) Every 4 years, appraisers shall successfully complete at least 2 hours of continuing education devoted to Michigan appraiser license law and rules.

History: 2002 MR 9, Eff. May 21, 2002; 2006 MR 11, Eff. June 2, 2006.

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R 339.23327

Source: 1996 AACs.